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The Importance of Comprehensive Clinical Social Work Assessments for Determination of Older Adult Guardianship Petitions in Cook County Probate Court, Chicago, Illinois

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LOYOLA UNIVERSITY CHICAGO

THE IMPORTANCE OF COMPREHENSIVE CLINICAL SOCIAL WORK
ASSESSMENTS IN DETERMINATION OF OLDER ADULT
GUARDIANSHIP PETITIONS IN COOK COUNTY PROBATE COURT,
CHICAGO, ILLINOIS

A DISSERTATION SUBMITTED TO
THE FACULTY OF THE GRADUATE SCHOOL
IN CANDIDACY FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

PROGRAM IN SOCIAL WORK

BY

HEATHER CATHLEEN JONES

CHICAGO, ILLNOIS

AUGUST 2009

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To my mother, Linda, and my husband, Jimmy

For always believing.

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ABSTRACT

As our population ages there seems to be a strong current toward seeking surrogate decision-makers for individuals, who appear unable to manage their lives and make clear choices. Guardianship is the most profound course of action when determining that an older adult lacks decisional capacity. Older adults make up the majority of persons adjudicated incapacitated and, in turn, are assigned guardians (Crampton, 2004; Teaster, Schmidt, and Roberto, 2004). There is limited research about older adult guardianship, so this study is opportune because of the increased longevity of the population, with the most rapid growth among the very old, who likely will have the greatest needs for protective services (Iris, 1991).

Literature about the use of social work in the guardianship system has typically been focused around collaborating with guardians (private – family/paid guardian or public or state agency) or the court system to assist with service linkage and care planning, and protection from abuse after adjudication of incompetence (Paveza, VandeWeerd, and Berko, 2002; Veith, Blair, Leonard, Bouma, and Pazda, 1996; Sonntag, 1995; Staudt, 1985).

This qualitative dissertation research explored if social workers can serve in the role of guardian ad litem in effort to complete comprehensive clinical assessment for older adult guardianship petitions brought forth in Cook County Probate Court, Chicago, Illinois.

The research involved exploration of legal case files and interviews with both mental health and legal professionals.

Comprehensive clinical social work assessments seem necessary in older adult guardianship cases in order to provide a clearer picture of the individual, his or her needs, if any, supports, etc. It is within the social work profession's realm to complete in-home or facility-based comprehensive clinical assessments, which explore biopsychosocial components of an individual, to investigate family relationships, dynamics, and issues, to provide service linkage, psychoeducation, advocacy and support, and to partner with individuals and families to develop the least restrictive, acceptable plan of care.

Assessments will allow for the human to be seen within the mass of documents within probate court. The older adult will have a voice, which will change the process of having something "done" to him or her by the courts to collaboration and exploration of who he or she is and what are the real needs of the individual. If a person is found to be in need of a guardian, social workers can continue to explore services that would allow for a safe, tailor-made, limited guardianship. It is a social worker's role to determine less restrictive ways of helping those who are failing physically and cognitively. The addition of social work expertise in the adult guardianship court system could enhance the preservation of individual rights.

Research of this nature is paramount to our aging population in the United States as a means of trying to safeguard rights. Our society is growing older and these concerns cannot be ignored. It is important that guardianship policies and practices meet the needs of the individual, not the timeframes of the court. Providing an in-depth, comprehensive, clinical assessment allows for a well rounded picture of the respondent, his or her

abilities, resources, and needs, which is essential in the adjudication process, especially when determining either a limited or plenary (full) guardianship. Having a clear understanding about the respondent will allow a judge to make an informed decision about the future of the individual, and may make a case for preservation of rights and creation of a less restrictive plan of care. Most importantly, it provides the respondent a better opportunity for due process and therapeutic jurisprudence. This research is essential to the values of social work, as social workers have an ethical obligation to advocate for and protect the self-determination of others. Fighting for justice and policy reformation is a hallmark of the profession.

The heart of the study was exploring if there is a role for comprehensive clinical social work assessments for older adult guardianship petitions and if social workers could function in the role of guardian ad litem. Salient themes include aging in America, American social structure, ageism in the United States, Families, history of adult guardianship in the United States, beneficence, personhood, rights, and ethics, Uniform Probate Code, State of Illinois Probate Act of 1975 and the Cook County Probate System, strengths and weaknesses of guardianship, due process and therapeutic jurisprudence, third party interests, limited vs. plenary guardianship, medical model, assessment for adjudication of incompetency and the Cook County Probate Court Guardian ad Litem role, and the role

CHAPTER I

INTRODUCTION

As our population ages there seems to be a strong current toward seeking surrogate decision-makers for individuals, who appear unable to manage their lives and make clear choices. Guardianship is the most profound course of action when determining that an older adult lacks decisional capacity. Older adults make up the majority of persons adjudicated incapacitated (Crampton, 2004; Teaster, Schmidt, and Roberto, 2004). There is limited research about older adult guardianship, so this study is opportune because of the increased longevity of the population, with the most rapid growth among the very old, who likely will have the greatest needs for protective services (Iris, 1991).

Previous qualitative and quantitative research about adult guardianship and interrelated older adult issues have focused on a variety of areas including: (a) guardianship reform (Barnes, 1992; Schmidt, 1995; Fred and Enbar, 2001; Fred, 2003; Alexander, 1990); Wingspan Guardianship Conference, 2001); (b) the severity of imposing guardianship over the life of a senior (Rein, 1992; Yeoman, 2004; Iris, 1990; Schmidt, 1995); (c) the need for guardians for long-term care residents (Reynolds, 2002); (d) paternalism and guardianship (Regan, 1981); (e) risk factors and characteristics of

individuals adjudicated incompetent (Christy, McCranie, and Stiles, 2004; Reynolds, 2002; Teaster and Roberto, 2002); (f) maintaining autonomy within disability, cognitive diseases and guardianship (Rosoff and Gottlieb, 1987; Cohen, 1988); (g) hidden elder abuse and the guardianship system (Angelari, 2003); (h) decision-makers in guardianship (Iris, 1988); (i) involuntary protective service for older adults (Duke, 1997; Schimer and Anetzberger, 1999); (j) public guardianship and older adults (Teaster, 2002); (k) the need for monitoring of guardianship cases (Fred, 2003; King, 2007); (l) investigation of guardianship recommendations implementation into state systems (Keith and Wacker, 1993); (m) comparisons of guardianship and alternative interventions (Wilber and Reynolds, 1995); (n) use of professional guardians for older adult wards (Reynolds and Carson, 1999); (o) international reforms and advances in older adult guardianship practices (Arai and Homma, 2005; Mizuno and Nanba, 2003); (p) non-kin guardianships (Barker and King, 2001); and (q) financial exploitation by guardians (McCawley, Tilse, Wilson, Rosenman, and Setterlund, 2006).

Literature about the use of social work in the guardianship system has typically been focused around collaborating with guardians (private – family/paid guardian or public or state agency) or the court system to assist with service linkage and care planning, and protection from abuse after adjudication of incompetence (Paveza, VandeWeerd, and Berko, 2002; Veith, Blair, Leonard, Bouma, and Pazda, 1996; Sonntag, 1995; Staudt, 1985).

Some researchers have touched on bringing social workers into a multi-disciplinary team effort to explore least restrictive options for wards (Clouser, 1990; Holstein, 1995) or the usefulness of social work professionals within the realm of elder

law (Bassuk and Leesem, 2001), as well as having social workers appear in court to provide evidence and advocacy on behalf of the respondent (Crampton, 2004). Others have discussed the importance of social work tools and assessment in evaluating respondents for guardianship an effort to provide the guardian ad litem with a well rounded picture of individuals' needs, abilities and supports (Hull, Holmes, and Karst, 1990). This researcher was only able to locate one article, which addressed the potential for social workers to function in the guardian ad litem role to provide the court with comprehensive evaluations of respondents (Spira, 2008).

Research Question

This dissertation research explored if social workers can serve in the role of guardian ad litem in effort to complete comprehensive clinical assessment for older adult guardianship petitions brought forth in Cook County Probate Court, Chicago, Illinois. It is within the social work profession's realm to complete in-home or facility-based comprehensive clinical assessments, which explore biopsychosocial components of an individual, to investigate family relationships, dynamics, and issues, to provide service linkage, psychoeducation, advocacy and support, and to partner with individuals and families to develop the least restrictive, acceptable plan of care.

Comprehensive clinical social work assessments seem necessary in older adult guardianship cases in order to provide a clearer picture of the individual, his or her needs, if any, supports, etc. Assessments will allow for the human to be seen within the mass of documents within probate court. The older adult will have a voice, which will change the

process of having something “done” to him or her by the courts to collaboration and exploration of who he or she is and what are the real needs are. If a person is found to be in need of a guardian, social workers can continue to explore services that would allow for a safe, tailor-made, limited guardianship. It is a social worker’s role to determine less restrictive ways of helping those who are failing physically and cognitively. The addition of social work expertise in the adult guardianship court system could enhance the preservation of individual rights.

The procedures in Cook County Probate Court include a petitioner filing a petition with the court along with a physician’s report called a CCP 0211 A-B, which explains a person’s level of capacity to make decisions and manage his or her life. In some cases, a judge will assign an attorney, acting as Guardian ad litem (Angelari, 2003), to meet with the respondent, make observations about capacity, investigate family and/or personal issues, and report back to the court (Illinois Probate Act, 1975). If or when a social worker becomes involved with a guardianship case, it is usually after the respondent has been adjudicated incapacitated and there is a need for social services and case management (Paveza, VandeWeerd, and Berko, 2002; Crampton, 2004).

The researcher explored the potential role of social workers, as guardian ad litem, to provide comprehensive clinical assessments for older adult guardianship petitions, by interviewing two professionals from the fields of elder law and geriatric mental health care, as well as exploring 8 older adult (60 years of age and over) guardianship case files, covering a four-year period (January 2004 to December 2007), from an elder law practice, where they were in the role of guardians ad litem. The

potential files reviewed had a mix of law student(s) only or social work and law student teams on guardian ad litem cases.

Variables

The key variables in the elder law case files were (a) type, length, and issues of the case; (b) involvement of social work/law student teams or only a law student/law team; (c) who was the petitioner; (d) who was the intended guardian or guardian (private, public, state); (e) who was the respondent or ward (mother, father, brother, sister, friend, individual recommended by an agency, etc); (f) other attorneys or professionals involved, as well as the judge presiding over the case. Also, an important variable is (g) who completed the various formal court documents, as well as case notes, memos, etc., because their feelings, beliefs, and positions influence their observations, writing and opinions.

The key variables in the interviews were the experiences of each participant, education, his or her professional field of work, social positions, beliefs about the roles of guardianship and policies, and other professions, as well as feelings and beliefs about older adults.

Definitions of Terms

For the purposes of this research the following are operational definitions of key terms used in this study:

Guardianship - the legal removal of some (limited) or all (plenary) of one's adult rights (i.e. right to vote, get married, enter into contracts, and decisions about place of residence, finances, health care, and other personal choices).

Guardian ad litem - usually being an attorney, who is appointed by Cook County Probate Court, Chicago, Illinois, to explore the necessity of adjudicating an older adult as lacking decisional capacity and having his or her rights reduced or eliminated.

Elder Law Professional – an Illinois licensed attorney, working in Cook County, who has at least two-years of working knowledge of older adults and guardianship.

Mental Health Care Professional – an Illinois licensed or certified health mental health care provider (Psychologist, Psychiatrist, Clinical Social Worker, or Counselor), working in Cook County, who has at least two-years of working knowledge of older adults.

Comprehensive Clinical Social Work Assessment – a biopsychosocial assessment that includes, but is not limited to: demographics, educational and personal history; medical and psychiatric history, and current health status; medications; evaluation of basic and higher level daily functional and cognitive abilities (transportation, money management, memory, personal care, etc.), evaluation of home or facility environment; family relationships and dynamics; social supports and activities; cultural, religious and/or spiritual needs; recommendations for assistance and services, if necessary.

Importance of Study

Research of this nature is paramount to our aging population in the United States as a means of trying to safeguard rights. Our society is growing older and these concerns cannot be ignored. It is important that guardianship policies and practices meet the needs of the individual, not the timeframes of the court. Providing an in-depth, comprehensive, clinical assessment allows for a well rounded picture of the respondent, his or her abilities, resources, and needs, which is essential in the adjudication process, especially when determining either a limited or plenary (full) guardianship. Having a clear understanding about the respondent will allow a judge to make an informed decision about the future of the individual, and may make a case for preservation of rights and creation of a less restrictive plan of care. Most importantly, it provides the respondent a better opportunity for due process and therapeutic jurisprudence. This research is essential to the values of social work, as social workers have an ethical obligation to advocate for and protect the self-determination of others. Fighting for justice and policy reformation is a hallmark of the profession.

CHAPTER II

LITERATURE REVIEW

Aging in America

In order to fully grasp the implications for the strong potential for increased older adult guardianship adjudications and the need for comprehensive social work assessments, we must first examine the rapidly growing aging population in our society. There is an expectation of significant longevity for individuals in the United States, as well as globally, due to advances in health care, nutrition, and environmental factors (Schmidt, 1995; Quinn, 2005; Barnes, 1992; Rein, 1992; Mizuno and Nanba, 2003; King, 2007; Hashimoto, 1993; Crampton, 2004; Marson, 2002; Rosoff and Gottlieb, 1987; Barker and King, 2001; McInnis-Dittrich, 2005; and McCawley, Tilse, Wilson, Rosenman, Setterlund, 2006). According to Quinn (2005), individuals in their sixtieth decade have “more than tripled from 4.1% in 1900 to 12.4% in 2000” (p. 12). However, those with the potential to reach their nineties is double that of “the age sixty-five to seventy-five group” (Barnes, 1992, p. 639). Aging investigators believe that we will

eventually come to an average life of eighty-five years of age and “nearly one out of every four persons in the United States will be elderly...” (Barnes, 1992, p. 1847).

Due to the growth of the older adult population, more researchers are interested in learning about the aging process (Marson, 2002; Russo, 2001), and are breaking through misconceptions about deterioration and highlighting that growing old does not necessarily mean rapid mental and physical decline or illness for all people, especially for the “youngest” of the old (Rein, 1992; Agich, 1993; Savishinsky, 1991). Many older adults appear to live full, productive lives and maintain their own residences or live in independent apartment facilities (Rein, 1992; Agich, 1993; McInnis-Dittrich, 2005), those who may need nursing home or rehabilitation facilities usually fluctuate between four and five percent (Rein, 1992; Agich, 2003). Unfortunately, senior citizens’ comprising the “old, old”, individuals living well into their eighties and beyond, are found to be frailer, and to experience cognitive and physical problems that require assistance (Quinn, 2005; Iris, 1988; McCawley et al, 2006; Crampton, 2004; Marson, 2002; Zimny and Grossberg, 1988; Moye, 1996; and Kapp, 1996; Teaster and Schmidt, 2004; McInnis-Dittrich, 2005).

Advanced aging problems can manifest in a variety of chronic ways, including decreased stamina and ambulation, arthritis, cardiac and pulmonary diseases, progressive vision and hearing loss, and compromised immune systems, but most concerning in the realm of older adult guardianship are cognitive deficits (Barnes, 1992; Rein, 1992; Rosoff and Gottlieb, 1987; Iris, 1988; Crampton, 2004; Moye, (1999); Teaster and Roberto, 2002; Barker and King, 2001; Rosoff and Gottlieb, 1987; and Smyer, 1993).

Vascular and Alzheimer's type dementias are shown to increase with age, especially after seventy-five (Barnes, 1992; Iris, 1988; Crampton, 2004; Moye, 1996; Hull, Holmes, and Karst, 1990; Teaster and Roberto, 2002; Mizuno and Nanba, 2001; Marson, 2002). Dementia has no known cure and progresses with time. It is a "general mental deterioration of psychobiologic etiology" and "is manifested by behavioral and intellectual deterioration" (Rosoff and Gottlieb, 1987, p. 1). It can affect one's emotional well-being due to an inability to remember events, people, experiences, and day-to-day activities, which may stimulate depression and anxiety. It can impact judgment and play "tricks" on the mind that may lead to suspiciousness and paranoia. It also can affect physical well-being, as neurofibril tangles interfere with brain signals to organs and limbs. Dementia can have serious ramifications on daily functional abilities, such as maintaining relationships, home and personal care activities (Rein, 1992; Barnes, 1992; Rosoff and Gottlieb, 1987; Smyer, 1993; Agich, 2003; Marson, 2002; Moye, 1999; McInnis-Dittrich (2005). These "chronic impairments" promote reliance on others for support (Barnes, 1992). In addition to impacting the person, families find themselves at a loss and are frightened by the "loss" of their family member.

However, dementia and other chronic conditions do not manifest the same for everyone; therefore levels of assistance can be dramatically different. It is important to understand that signs and symptoms of conditions and illnesses can be subtle. The way diseases manifest may also wax and wane within an individual, which creates difficulty in determining if, when, and what kinds of supports and care are required. In Rosoff and

Gottlieb's (1987) exploration of autonomy and Alzheimer's disease, they discussed that the path of illness

is extremely variable and progression from mild to severe symptoms may take anywhere from a year to more than a decade. Therefore, prognosis and prediction of changes in function related to the disease may be impossible to make with any degree of accuracy. Similarly, important aspects of premorbid personality may be retained for long periods during the course of the disease (p.3).

Also, one's cohort placement, socioeconomic position, ethnicity, race, religion, and culture add even higher, and possibly more important, elements of diversity, which must be considered with each individual (Smyer, 1993; House, 1992; Light and Lebowitz, 1990; Salzman and Lebowitz, 1991).

American Social Structures

American social structures are of major importance in understanding how society views older adults, engages older people, and interprets their abilities, strengths and needs. Deep-rooted social, cultural, and institutional beliefs and arrangements provide a concrete foundation for how we interpret our selves, our environments, and others (Agich, 1993). The United States was built on the presumption that everyone should be self-sufficient and able to meet his or her own needs. Independence, freedom of choice,

autonomy and self-determination are prominent themes within our culture (Martin, 1989; Trattner, 1999; Hashimoto, 1993; Welte and Fulmer, 1995; and Rein, 1996). This holds true unless it is perceived that one requires guidance and assistance due to some form of incapacity. Under such circumstances, there would be justification for *parens patriae*, which is considered to be beneficent, fatherly actions by the state “to protect and help impaired individuals...” (Rein, 1996) regardless if the person requests or believes assistance is needed.

Emigration to America resulted in small, tight-knit, agrarian communities, who governed themselves and assisted each other with their needs. Protestant values promoted support of individuals with special needs (Trattner, 1999). Family was essential to existence, and children grew up understanding that they would care for their elderly parents and inherit the land. The older generation was revered and of utmost importance within the family structure. As our country expanded through industrialization, urbanization, and immigration family life and priorities began to change with modernization. Children left their rural lives for the cities, and intergenerational roles and support began to erode (Trattner, 1999; Rein, 1996; Segal and Brzuzy, 1998).

The shift in physical and mental orientation to a capitalist environment was a “radical alteration of the reciprocity arrangements and power relationships between generations....Population movement from farms to cities helped to destroy the extended family structure that gave older people a special importance” (Rein, 1996, p.1849). With modernization, older people, who no longer worked due to infirmities or just advanced age, were “seen as ineffective, superfluous, to be tolerated if necessary, but preferably to

be disposed of in some acceptable manner” (Rein, 1996, p. 1849). Being and staying strong, healthy, capable, productive, and YOUNG was highly prioritized and socialized into our culture, and planted the fully grown seeds of ageism, which we have today (Taylor, 1976; Cole, 1985; Rein, 1996; Agich, 1993; Kalish, (1979).

Ageism in the United States

Ageism ultimately affects us all. Ageism knows no color, gender, religious, or cultural barrier. Ageism promotes prejudice in the young to view the old as antipodal to themselves, which makes it difficult to connect or relate to old people (Agich, 1993). Agich (1993) wrote about the idea of a “new ageism”, which categorizes older adults as “a kind of a least common denominator, namely, in terms of those who are least capable, least healthy, and least alert, so that elders as a class are seen as helpless and dependent individuals”(p.48), who are needy and require assistance. Older adults can be perceived as an “economic drain” (Agich, 1993, p.50) on our families and society. Aging actually makes many people uncomfortable and afraid, because, socially, older adults slowly lose human status (Butler, 1975). Due to erroneous assumptions, the aged become evanescent since they represent our mortality and, thus, increase our anxiety (Beauvoir, 1972; Schultz, 1971; Agich, 1993).

Sadly, many older adults have “bought-in” to these ageist beliefs, and it is not uncommon to meet older adults, who do not want to interact with “old people”. In a gerontophobic society that values youth and vitality, it is not difficult to understand. Rosenfelt (1965) wrote about “The Elderly Mystique”, in which she describes older people as essentially anticipating pejorative treatment due to cultural norms and role interpretation. It is thought that the aged expect to disengage from society and allow others to usurp their autonomy and choices in life. This self-discrimination is brought about by “imagines of frailty and despair, loneliness and destitution, and above all a profound sense of loss, a loss not only of things, but of who and what we are” (Agich, 2003, p. 2). This is especially true if one is disabled (Agich, 1993; Cumming and Henry, 1961). Being sick and old creates dissonance between how an individual experiences him or her self and society. One perceives restrictedness in the surroundings (Agich, 2003).

Families

Despite social and environmental changes, most families do love, value and care about their elders; however, cultural differences and ageist attitudes can impact caring responses, understanding of illnesses, and the aging process (Welte and Fulmer, 1995). In addition, our fast-paced, work-oriented society places constraints on availability to care for older adults. Our current economic climate does little to alleviate the stress of

family members or give them the time and attention required to learn, understand and utilize community, federal, and state resources. This is especially hard for the “Sandwich Generation” where adult children are “sandwiched” in between caring for their own children and their aging parents. Dual roles place extra stress on individuals and can severely compromise health and well-being (Abaya, <http://www.thesandwichgeneration.com/>, 9/12/2008).

According to the North Shore Senior Center Alzheimer’s Caregiver Manual (2003), helping an aging parent, who has dementia, “is more stressful than any other type of caregiving” (p. 23). Informal family caregivers carry heavy loads with trying to maintain work, marriages, children, and aging parents, and end up sacrificing themselves to illness, anxiety and depression. They may be reluctant to make major decisions on behalf of a relative and may be uncomfortable providing personal care to them (Reynolds and Wilber, 1995). Some experience difficulty with role changes and have difficulty finding, understanding, and using social service programs to help them (Wilber, 1997).

Primary older adult care is usually given in the community by relatives or friends (Welte and Fulmer, 1995; Agich, 1993). Being in the care of family can be a positive difference for a senior citizen in that they are “sustaining various kinds integrated lives” (Agich, 1993, p. 47). However, informal caregivers must utilize respite and other assistance, be it friends or formal services, in order to reduce stress and fatigue, otherwise, there is high risk for abuse, neglect and financial exploitation of older adults, as well as a disregard for the individual’s self-determination and sense of autonomy. Guardianship under these circumstances can be a devastating blow to an older adult,

especially in an abusive situation where the “abuser” becomes the guardian (Barker and King, 2001; Hull, Holmes, and Karst, 1990; McCawley, Tilse, Wilson, Rosenman, and Setterlund, 2006; Welte and Fulmer, 1995; Duke, 1997).

History of Adult Guardianship in the United States

Senior citizens, who are physically and/or cognitively impaired, may be subject to adjudication of incompetence within a court of law, become “wards” of the state, and assigned guardians to make personal care and/or financial decisions. Assistance can manifest in a variety of ways, but most importantly, under guardianship, it is a legal stripping of one’s adult rights, so that a custodian can manage life decisions. The roots of these ideas began in Greece and Rome, with a primary focus on protecting the wealth and property of the “fool” from being mismanaged and squandered (Quinn, 2005, p.18). During his Roman authority, Cicero’s decree designated guardians to manage the assets of cognitively impaired subjects, but there was little consideration for the physical and emotional care of them (Quinn, 2005; Venesy, 1990; Schimer and Anetzberger, 1999). Guardianship continued to morph over the ages with use of ceremonious exorcisms to rid the individual of the afflicting spirits, yet focus was still on fiscal management (Quinn, 2005).

In the 1300's, the historic English "De Praerogativa Regis" law was enacted, in which the King sought to care for those less mentally fortunate (Quinn, 2005; Schimer and Anetzberger, 1999; Sabatino, 1996; Barnes, 1992). "The King exercised guardianship through the Lord Chancellor, who held inquisitions to inquire into the condition of the mentally disabled person and to appoint a committee for his person and property. This applied to both an "idiot", who "hath no understanding from his nativity" and a "lunatic" who "hath had understanding, but...has lost the use of his reason" (Quinn, 2005, p. 19). Parens patriae is the influence for the guardianship system in the United States. These paternalistic imperatives were brought by the pilgrims, which germinated into our modern day American guardianship statutes (Teaster, 2002; Blackstone, 1989; Hull, Holmes, and Karst, 1990; Schimer and Anetzberger, 1999; Quinn, 2005; Johns, 1997; Yeoman, 2004; Regan, 1981; Barnes, 1992).

Beneficence

Guardianship is a powerful, paternalistic intercession meant to be a beneficent action under the law, and can be thought of as an adult protective and/or long-term care legal option for assailable individuals (Staudt, 1985; Quinn, 2005; Wilber, 1997; Hull et al, 1990; Rein, 1992). In certain instances, guardianship can be a lifesaving intervention and safeguard to promote the well being of an aging person. Older adults, who are declining physically and cognitively, are susceptible to failure in self-care. They may be

socially isolated, with little or no family or friends to offer help, and unable to access appropriate assistance for themselves. Also, a person's environment may not promote his or her abilities (Catlett, 1990). Those of advanced age can also find themselves being preyed upon by anfractuous people with fraudulent schemes to exploit them (Staudt, 1985; Horowitz and Estes, 1971; Reynolds, 2002; Hull et al, 1990; King, 2007).

Guardianship is thought to be a way of championing a fragile person's needs, and providing legal and professional force to direct their care (Hull et al, 1990; Agich, 1993). DuCanto (2005) expressed that guardianship is one of the most optimal ways of caring for older adults, since once an individual is inducted into the guardianship system, care is "lavished upon the ward" (p. 27). It is uncertain if this is truly the case in all guardianship situations; however the court's hope is to elect a guardian, who will provide dependable care and services to enhance the individual's quality of life, as well as prevent harm by others or through self-neglect (Hull et al, 1990; Marson, 2002; Marson, Dymek, and Karlawish, 2001; Schimer and Anetzberger, 1999; Beauchamp and Childress, 1989; Duke, 1997; Collopy, 1988; Buchanan, 1981; Veatch, 1981; King, 2007). It is desired that the autonomy and self-direction of an individual is promoted with the imposition of a guardian to assist the ward with decision-making (Crampton, 2004; Alexander, 1990; Rein, 1992; Barnes, 1992).

Finding a balance between legally protecting older adults and restricting the liberties of thinking, feeling individuals is complicated and discussed widely in the guardianship literature. There is a call to scrutinize and reform policy to safeguard personhood, values, civil and human rights, and promote ethical standards (Teaster, 2002; Holstein, 1995; Wilber 1997; Wilber and Reynolds, 1995; Staudt, 1985; Cohen, 1978; Sonntag, 1995; Welte and Fulmer, 1995; Morgan, 2002; Veith, Blair, Leonard, Bouma, and Pazda, 1996). The culture of the United States promotes autonomous functioning and individuality. Guardianship can be perceived as the antithesis of such values (Agich, 1993). Holstein (1995) explores this issue and states “Autonomy has often become conflated with respecting persons. In this thinking, we respect persons by leaving them alone to pursue their own plans and projects. As a result, autonomy, literally defined as self-direction, has emphasized non-interference (p. 170).

However, citizens rarely know true autonomy in that we function within our societies, communities, and families (Collopy, 1988; Agich, 1993). Interstitial cultural narratives inform our beliefs about morals, values, spirituality, and ways of living (Agich, 1993; Holstein, 1995; Collopy, 1988; Welte and Fulmer, 1995; Catlett, 1990). Autonomy is truly a “complex working out of a life, at whatever stage we have reached, that lets us be who we think we are” (Holstein, 1995, p. 171). Maintaining ethical care requires obtaining agreement about future planning, supporting intrapersonal goals and self-

determination, promoting respect and equality, as well as giving nurturance (Holstein, 1995; Callahan, 1984; Wilber and Reynolds, 1995; Sonntag, 1995; Dworkin, 1978; Barnes, 1992; Collopy, 1988).

When individuals are stricken with terrible diseases, such as dementia, it is essential to care for them, AND to support and enhance whatever functional abilities and personhood remain (Kitwood and Bredin, 1992; Holstein, 1995; Paveza, VandeWeerd, and Berko, 2002; Rein, 1992). Cognitive diseases are an affront to personhood. Those caring should make every effort to support the values, ideas, and beliefs of the individual, who still exists, despite impairments (Kitwood and Bredin, 1992).

Bioethics stresses not imposing views on another. Older individuals have years of life experience engrained in them that inform their coping mechanisms (Catlett, 1990; Collopy, 1988). When they require help it is important to provide options and to discuss plans that are acceptable to and respectable of them. It is necessary to reduce risk but not forsake the person (Holstein, 1995; Fox and Swazey, 1984; Wilber and Reynolds, 1995; Cohen, 1988; Collopy, 1986). When attempting to intervene for the protection of another, the least restrictive options should be used to address safety (Wilber and Reynolds, 1995; Dworkin, 1978).

In Keith and Wacker's (1993) guardianship research, they explained that

a common goal of the reforms is to protect the personal freedom of proposed wards. The intrusion on individual liberties and the profound consequences of a

finding of incapacity have prompted efforts to ensure that erroneous decisions about guardianship do not occur (p. 81).

There is expressed concern about inappropriate “protective” services for aged individuals whom communities find to be “incapable, eccentric, or bothersome” (Staudt, 1985, p. 205). This can be interpreted as policy as social control (Welte and Fulmer, 1995). People have the right to make “bad” choices as long as they are not harming themselves or others (Rein, 1992; Duke, 1997; Crampton, 2004; Regan, 1981). It is an atrocity when rights are impeded purely on the basis of age and/or eccentricity. Determining acceptable risk is difficult, but the effort is imperative (Rein, 1992). It is essential that advocates, especially social workers, promote the right to be different without removal of civil liberties (Staudt, 1985). Promoting autonomy is a “modus vivendi that requires the accommodation of difference that is characteristic of liberal societies” (Agich, 2003, p. 15).

There has been known misuse of the system to place individuals in nursing facilities when skilled care is not necessary, and they would be better off living in a community setting with supportive services (Cohen, 1978; Mitchell, 1978; Reynolds, 2002; Rein, 1992). Agich (2003) discusses that placement in a nursing home has such dread and despair attached to it, because individuals feel it is an “effacement of autonomy...” (p. 5). Conforming to the new environment is a re-composition of “identities...through rituals of initiation and degradation...” (p. 5). It is understood that the intention of nursing facility care is just that, care, but there are profound cultural connotations around it, and being placed in a nursing home without consent feels like a

stripping of one's personhood and exposing the "...messy deep reality of being old and frail" (Agich, 2003, p. 5). Unfortunately, guardianship can often lead to being placed in a long-term care facility (Rein, 1992). The liberty and self-determination that is supposed to be ours within our culture should not be completely jeopardized due to guardianship. Offering less restrictive alternatives to match the individual's needs and beliefs should be paramount in care and assistance (Agich, 2003; Barnes, 1992). Long-term care encompasses a variety of options, which can enhance an individual's ability to make choices and live life more fully (Barnes, 1992).

Loss of self-determination, a sense of autonomy, independence, and control through legal mechanisms can lead to devastating effects for older adults. In the later stages of life, loss of vitality and health, of family, friends, employment status and income, in addition to ageism, can increase the likelihood of depression and despair for some individuals (Rein, 1992; Agich, 2003). Guardianship, if done inappropriately or without care for who the individual is, can exacerbate feelings of disintegration from life and society, and stimulate rapid decline of physical and mental capabilities (Rein, 1992). In addition, it is already known that suicide among older adults is very high, due to loss and feelings of being burdensome, and it is only expected to rise with the aging of the baby boomers. Increased suicidal ideation or actual suicide in our geriatric population, due to extreme "helping" through guardianship, is of tremendous concern (Rein, 1992).

Uniform Probate Code

Interestingly, in the United States, guardianship falls usually falls under a state's probate code, which has a primary focus on money, property, and inheritance. The original Uniform Probate Code (UPC) was created in 1969 by the National Conference of Commissioners on Uniform State Laws and the American Bar Association, and is a thorough statute meant to provide all states with contemporary and standardized processes (Averill, 2001). However, the UPC is "recommended" (Uniform Probate Code, 2004) not required to be adopted by states, in fact, only sixteen states, Alaska, Arizona, Colorado, Florida, Hawaii, Idaho, Maine, Michigan, Minnesota, Montana, Nebraska, New Mexico, North Dakota, South Carolina, South Dakota, and Utah have incorporated the entire statute, while other states vary, widely, in which portions of the code are used (www.law.cornell.edu/uniform/probate.html, 2008) and mainly serves as a template.

The UPC was last amended in 2006 by the NCCUSL. The statute outlines legal processes and procedures for both "Guardianship of Minor" (part 2), "Guardianship of Incapacitated Person" (part 3), and "Protection of Property of Protected Person" (part 4) (Uniform Probate Code, 2004). For the purposes of this research, exploration will be on the adjudication of incompetence for adult "Incapacitated Person", as well as protection of property. Under the sections 5-304 to 5-433 of the UPC (p. 450-518) it sets forth how

the judicial process is to precede, types of guardians, and guidelines once an adult is adjudicated incompetent.

According to the UPC (2004), to begin the guardianship process someone, who is concerned about the “welfare” of another, “may petition for a determination of incapacity, in whole or in part, and for the appointment of a limited or unlimited guardian for the individual” (p. 450). The petitioner must supply certain information about him or her self, and the manner in which he or she knows the potential “respondent” (p. 450). Demographics of the respondent, including name and address of spouse and or other adult “whom the respondent has resided for more than six months before the filing” and adult children, if any, need to be provided (p. 450). If the respondent does not have children, then the names of mother and father, adult siblings, or “at least one of the adults nearest in kinship to the respondent who can be found”, need to be given in the petition (p. 450). In addition, the court may require the names of caregiver/custodian, legal representatives, or individual “nominated as guardian by the respondent” and the “reasons why the proposed guardian should be selected” (p. 450). It is explained in the code that guardian preference is usually a family member, either a spouse or adult child, unless the respondent nominated someone else prior; however, if none are options then others are considered.

The UPC (2004) explains that providing contact information for family and/or significant others, is to assist in gathering as much information about the respondent from those who may have an interest in his or her well being. It is noted that courts should have a “reasonableness standard so that the petitioner does not have to give the name of

every person with whom the respondent has resided in the respondent's entire life and whose current interest in the respondent's welfare may be quite remote" (p. 450). Courts can also choose to eliminate professional care workers from needing to provide information about the respondent and rely solely on relative and significant personal relationships. Also, should the respondent have a legal relationship, such as an agent serving under Power of Attorney, the court may decide that guardianship is unnecessary, since there is already a determined representative.

Most importantly, the UPC (2004) states that the petitioner needs to provide the reason why guardianship is necessary, including a brief description of the nature and extent of the respondent's alleged incapacity, and if unlimited guardianship is request, the reason why limited guardianship is inappropriate and, if a limited guardianship is requested, the powers to be granted to the limited guardian; and a general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of any other anticipated income or receipts (p. 450-451).

Once an appropriate guardianship petition is submitted to the court, the judge will "set a date and time for hearing the petition and appoint a [visitor]" (p. 452). Once this is completed, the respondent must be "served personally" a "copy of a petition for guardianship and notice of hearing on the petition" (p. 459). The notice must provide information about the guardianship hearing and the reasons for it, the respondent's rights, and the necessity for being at the hearing, unless the court approves absence. In addition,

all significant others listed in the petition shall be given notice of the petition and hearing. Neglect of notices will result in denial of petition.

The UPC (2004) indicates that the court “visitor must be an individual having training and experience in the type of incapacity alleged” (p. 452). The court may also appoint an attorney for the respondent, if the respondent asks for one, or the appointed visitor or the court believes an attorney is needed to represent the respondent. Some courts may require that a respondent have legal representation.

The appointed visitor is to meet with the respondent at his or her current residence for an “interview” (UPC, 2004, p. 453) involving an explanation of the guardianship petition brought forth, how the process will precede, his or her rights, and the role of the guardian. The visitor should try to ascertain the respondent’s feelings about the potential guardian, the responsibilities of that person, what being under guardianship will entail and for how long. The visitor should explain that the respondent is able to hire his or her own attorney or have one selected by the court. The respondent should also be made aware that all guardianship costs are at his or her expense.

Additionally, the visitor is required to consult with the petitioner and potential guardian, if different, investigate possible housing alternatives where the respondent may reside after adjudication, speak with physicians or “other person who is known to have treated, advised, or assessed the respondent’s relevant physical or mental condition” (UPC, 2004, p. 453), and explore other issues that the court requests. After meeting these tasks, the visitor must then complete a report for the court, explaining the respondent’s

activities of daily living, if there are areas he or she requires assistance, and if there are services or equipment that could improve those areas. The visitor must make “recommendations regarding the appropriateness of guardianship, including as to whether less restrictive means of intervention are available, the type of guardianship, and if a limited guardianship, the powers to be granted to the limited guardian” (UPC, 2004, p. 454).

Also, the visitor must discuss if the potential guardian is fit to act for the respondent and can meet the duties of the legal role, if a change in residence benefits the respondent, if the respondent should submit to “professional evaluation”, and any additional information that the court should know (UPC, 2004, p. 454). The court may request an evaluation by a “physician, psychologist, or other individual appointed by the court who is qualified to evaluate the respondent’s alleged impairments” (UPC, 2004, p. 456). The evaluation should explain what the respondent’s mental and physical constraints are and how they impact his or her life, and how these conditions were assessed. The professional should also address if there are ways of improving the conditions through medication, therapies, and/or skill acquisition. This report will then be filed with the court.

The UPC’s (2004), “Protection of Property of Protected Person” (p.473), has exactly the same wording as “Guardianship of Incapacitated Person” regarding how the petition is brought forth; however, the language for finding that a person is unable to manage his or her finances and/or properties is different. According to Section 5-401, the court must find “clear and convincing evidence”, that the respondent is too impaired to

handle financial matters because of an inability to absorb and appraise facts and determine a course of action, “even with the use of appropriate technological assistance...”(p.473). In addition, the court requires

a preponderance of evidence, the individual has property that will be wasted or dissipated unless management is provided or money is needed for the support, care, education, health, and welfare of the individual or of individuals who are entitled to the individual’s support and that protection is necessary or desirable to obtain or provide money (p. 473).

Upon adjudication of the respondent, the petitioner, may have to provide a bond “conditioned upon the faithful discharge of all duties of the conservatorship according to law, with sureties as it may specify” (p. 495). The bond may have to be the value of the respondent’s assets.

The UPC (2004) explains that both the potential guardian and the respondent “shall attend the hearing”, unless there is “good cause” for either not to be there (p. 458). The respondent is allowed to partake in the hearing process and “present evidence and subpoena witnesses and documents; examine witnesses, including any court-appointed physician, psychologist, or other individual qualified to evaluate the alleged impairment...” (p. 458). The adjudication hearing may take place at a location of convenience to the potential ward and may be off limits to the public. With approval from the judge, other interested people may contribute to the hearing, as long as “the best interest of the respondent will be served” (p. 458). If someone is adjudicated to be

incompetent, then he or she, as well as others named in the petition, must be notified within 14 days.

For someone adjudicated to lack decisional capacity, there are different types of guardianships, including emergency, temporary, limited and plenary (full or unlimited). Also, the guardian will have various duties, rights and limitations to his or her role. Limited and plenary guardianships are the primary areas to be explored in the context of this research.

The UPC (2004) states that court should determine the least intrusive option to help care for an incapacitated adult, so “limited guardianship is emphasized” (p. 462). Limited guardianship is supposed to be tailored to the individual’s deficit areas that need support. Plenary or unlimited guardianship, usually meaning guardianship of both person and finances/property, is to be used only if the incapacitated person is unable to manage any areas of his or her life. In either case, the guardian should “encourage the development of the ward’s maximum self-reliance and independence” (p. 462). The guardian and ward should discuss how personal and/or financial matters are to be handled and what the ward’s preferences are.

Unless guardianship is specifically limited by the court to certain areas, the guardian has the following duties:

For the person:

(1) become or remain personally acquainted with the ward and maintain sufficient contact with the ward to know of the ward's capacities, limitations, needs, opportunities, and physical and mental health; (2) take reasonable care of the ward's personal effects and bring protective proceedings if necessary to protect the property of the ward; (3) expend money of the ward that has been received by the guardian for the ward's current needs for support, care, education, health, and welfare; (4) conserve any excess money of the ward for the ward's future needs, but if a conservator has been appointed for the estate of the ward, the guardian shall pay the money to the conservator, at least quarterly, to be conserved for the ward's future needs; (5) inform the court of any change in the ward's custodial dwelling or address (p. 467).

For financial and property needs:

(1) apply for and receive money payable to the ward or the ward's guardian or custodian for the support of the ward under the terms of any statutory system of benefits or insurance or any private contract, devise, trust, conservatorship, or custodianship; (2) if otherwise consistent with the terms of any order by a court of competent jurisdiction relating to custody of the ward, take custody of the ward and establish the ward's place of custodial dwelling, but may only establish or move the ward's place of dwelling outside this State upon express authorization of the court; (3) if a conservator for the estate of the ward has not been appointed

with existing authority, commence a proceeding, including an administration proceeding, or take other appropriate action to compel a person to support the ward or to pay money for the benefit of the ward; (4) consent to medical or other care, treatment, or service for the ward; (5) if reasonable under all the circumstances, delegate to the ward certain responsibilities for decisions affecting the ward's well-being (p. 468).

It is also addressed in the UPC (2004) that guardians are usually not allowed to force a ward into mental health treatment of any kind including, psychiatric institutionalization or psychotropic medications. If such treatment is needed, the guardian must follow "the state's statute" on such issues (p. 468).

Once a guardian is appointed, he or she must provide the court with a care plan for the ward, as well as a financial/property inventory, if it is a plenary guardianship, within a specified amount of time for each report. Afterward, reports to the court are required on at least a yearly basis. Termination of guardianship usually occurs when the ward dies, although if a petition is brought forth by "a ward, a guardian, or another person interested in the ward's welfare, the court may terminate a guardianship if the ward no longer needs the assistance..." (p. 472).

State of Illinois Probate Act of 1975 and Cook County Probate System

The 1975 Illinois Probate Act falls under the state's Estates statute (755 ILCS 5/). Illinois's Probate Act fleshes out and defines more clearly what it means to be disabled under its' law, explains petition and adjudication procedures, identifies types of guardians and agencies that may serve the role, and their responsibilities. Although various states have revised and updated their statutes over the years, Illinois last amended its' probate act in 1979 to provide legal "protection for disabled persons. With this change, entirely new forms of guardianship were established. Most importantly, new procedures for the appointment of guardians and for the supervision of disabled persons and their estates were created" (<http://gac.state.il/osg/osgfs.html>, p. 1).

For the purposes of this research, focus was on the adult "disabled person", excluding those born with mental retardation and other developmental disabilities, and limited or plenary guardianship, excluding "short-term" and "temporary" guardianship, as defined in the Illinois Probate Act. The Illinois Probate Act (1975) defines an adult with disabilities as

a person 18 years or older who (a) because of mental deterioration or physical incapacity is not fully able to manage his person or estate, or (b) is a person with mental illness or a person with a developmental disability and who because of his mental illness or developmental disability is not fully able to manage his person or estate, or (c) because of gambling, idleness, debauchery or excessive use of

intoxicants or drugs, so spends or wastes his estate as to expose himself or his family to want or suffering (p. 1).

One can discern under Illinois law, purely being physically disabled may place an individual under guardianship, which to this researcher seems extreme. Also, certain language of the Act seems antiquated and puritan in nature i.e. “idleness” and “debauchery”, and can be interpreted in vastly different ways depending on individual point of view.

The Act (1975) explains that a “petition of disability and for the appointment of a guardian of the estate or the person or both of an alleged disabled person” (p. 7) needs to identify demographic information about the potential respondent and his or her family/kin, information about the respondent’s financial means and property, and the rationale for adjudication, similar to the Uniform Probate Code (2004). Paid care workers or other hired employees are not mentioned in the statute. It is also explained that only a judge can “dismiss” (p. 7) a petition once submitted to the court. In addition to the required petition document, a “report” (p. 8) should be provided detailing

- (1) a description of the nature and type of the respondent’s disability and an assessment of how the disability impacts on the ability of the respondent to make decisions or to function independently; (2) an analysis and results of evaluations of the respondent’s mental and physical condition and, where appropriate, educational condition, adaptive behavior and social skills, which have been performed within 3 months of the date of the filing of the petition;

(3) an opinion as to whether guardianship is needed, the type and scope of the guardianship needed, and the reasons therefor; (4) a recommendation as to the most suitable living arrangement and, where appropriate, treatment or habilitation plan for the respondent and the reasons therefor; (5) the signatures of all persons who performed the evaluations upon which the report is based, one of whom shall be a licensed physician and a statement of the certification, license, or other credentials that qualify the evaluators who prepared the report (p. 8).

For the Circuit Court of Cook County, the necessary formal documentation to provide with the petition is called the “Report of Physician - CCP 0211 A and B” (Revised 11/01/2001). This report cannot be older than three months when submitted to the court and MUST be completed by a licensed physician, although “other professionals” may contribute, and signed by the physician (B). The CCP 0211 (2001) asks five questions, however, one of the questions asks about the licensure and qualifications of the physician. The questions explore about the “nature and types of the respondent’s disability” and “how the disability impacts on the ability of the respondent to make decisions or to function independently”, for “an analysis and results of evaluations of the respondent’s mental and physical condition”, if the opinion is that the respondent “is TOTALLY or only PARTIALLY incapable of making PERSONAL and FINANCIAL decisions, and, if the latter, the kinds of decisions which the respondent can and cannot make”, and an opinion of the “most appropriate living arrangement”, as well as “appropriate treatment or habilitation plans”, if necessary (A). If the petitioner fails to

obtain a CCP 0211 upon submitting the petition, the statute states that it must be given to the court “at least 10 days prior to the hearing” (p. 8).

Once the petition is submitted to the court, the judge will assign a “date and place for the hearing to take place within 30 days” (p. 9). Of significant importance to this research, the court

shall appoint a guardian ad litem to report to the court concerning the respondent’s best interests consistent with the provisions of this Section, except that the appointment of a guardian ad litem shall not be required when the court determines that such appointment is not necessary for the protection of the respondent or a reasonably informed decision on the petition. If the guardian ad litem is not a licensed attorney, he or she will be qualified, by training or experience, to work with or advocate for the developmentally disabled, mentally ill, physically disabled, the elderly, or persons disabled because of mental deterioration, depending on the type of disability that is alleged in the petition (p. 9).

Also, the guardian ad litem (GAL) can confer with professionals with experience working with individuals, who are developmentally, mentally, physically, and cognitively disabled, if felt necessary. The GAL is required to observe and meet with the respondent, to explain the proceedings verbally and in written documentation, as well as explain the respondent’s legal rights. The respondent’s feelings and beliefs are to be obtained about the proceedings, the potential guardian, care plans, and possibility of moving. The GAL

will create and submit a report to the court, as well as testify during the hearing, regarding this interaction and explain if he or she believes guardianship is necessary. The GAL has a right to be paid for his or her work, which may come from the respondent's finances or estate or from the petitioner's, unless the attorney is assisting pro bono.

The GAL is not the respondent's attorney. The respondent is free to obtain counsel or the court may name an attorney for him or her, "if the court finds that the interests of the respondent will be best served by the appointment..."(p. 9). However, the court must obtain counsel for the respondent if he or she asks for legal help "or if the respondent takes a position adverse to that of the guardian ad litem" (p. 9). The respondent will have to pay for an attorney, if able, or fees may be the responsibility of the petitioner.

The respondent has the right to see a copy of the petition, to know the "date and time of the hearing...; the place where the hearing will occur is; the judge's name and phone number..." (p. 10). The respondent is allowed to ask to be reassessed and evaluated by another "expert " regarding need for guardianship, to have "a jury of six persons..., to present evidence to the court and cross-examine witnesses, the court hearing be closed to the public" (p. 10), and to name someone else as a preferred guardian. Notice of the hearing must be provided to the respondent, the potential guardian (if different than petitioner), and all significant others named in the petition "not less than 14 days before the hearing" (p. 11).

It is very necessary to understand that, under Illinois law, the respondent is not required to attend the guardianship hearing.

Under the Illinois Probate Act (1975), in order to find that the respondent is “disabled”, there must be “clear and convincing evidence that the person is a disabled person” (as defined in the statute) (p. 1). The judge may select a guardian of “person” if shown that the individual “lacks sufficient understanding or capacity to make or communicate responsible decisions concerning the care of his person, or...a guardian of his estate, if it has been demonstrated...that because of disability he is unable to manage his estate or financial affairs, or...a guardian of his person and of his estate” (p. 1). In Illinois, limited guardianship usually refers to guardianship of either “person” or “estate”, and plenary is guardianship over both. Once adjudicated, the named “disabled person” will receive information about seeking “modification” or revocation” of guardianship (p. 21), which he or she may pursue.

The guardian is to assist in helping to positively maximize the life and potential of the ward and keep him or her from harm. The ward should be assisted in making his or her own decisions and function as independently as possible. “Guardianship shall be ordered only to the extent necessitated by the individual’s actual mental, physical and adaptive limitations” (755 ILCS 5/Probate Act of 1975, p. 2). If the respondent is adjudicated to be disabled, the judge will provide a written statement explaining the reasons for guardianship, whether it is limited or plenary, and the “duties and powers of the guardian and the legal disabilities to which the respondent is subject” (p. 13).

The guardian’s duties and powers are outlined in the Illinois statute in similar fashion to the Uniform Probate Code. Briefly, the guardian for “person” must visit the disabled person and provide for all necessary care arrangements. Placement in a

“residential” facility is restricted, except for public agency guardianship, without express approval from the court. The guardian must provide clear reasons for wanting to transfer the ward into a facility, such as concerns for “substantial harm” (p. 14). For guardianship of the estate, the guardian “shall have the care, management, and investment of the estate, shall manage the estate frugally and shall apply the income and principal of the estate so far as necessary for the comfort and suitable support and education of the ward...” (p. 16). With order from the court, the guardian may be endowed to “exercise any or all powers over the estate and business affairs of the ward that the ward could exercise if present and not under disability” (p. 17). In accordance with statute rules, the guardian must provide the court with reports about the adjudicated person and estate at “intervals indicated by the court” (p. 15).

The Illinois Probate Act (1975) states that a guardian must be at least 18 years of age, “a resident of the United States, not of unsound mind, not an adjudged disabled person, and not been convicted of a felony” (p. 6). However, someone who has committed a felony may be considered if the

court finds appointment of the person convicted of a felony to be in the disabled person’s best interests, and as part of the best interest determination, the court has considered the nature of the offense, the date of offense, and the evidence of the proposed guardian’s rehabilitation. No person shall be appointed who has been convicted of a felony involving harm or threat to an elderly or disabled person, including a felony sexual offense (p. 6).

In addition, in Illinois, there are civil agencies and non-profit corporations, which will provide guardianship services if “found capable by the court of providing an active and suitable program of guardianship for the disabled person” (p. 6). It may be that guardianship of the person and estate will be separated into two different agencies or corporations depending on the circumstances of the disabled person. Also, there are professionals, such as attorneys and geriatric care managers, who will take on a paid role as guardian, if someone requires it.

Two important guardianship entities in Cook County are the Office of the State Guardian and the Cook County Public Guardian. The primary difference between the two agencies is the amount of the respondent’s estate. If a respondent has no one to serve as guardian and an estate over \$25,000.00, guardianship may be given to the Cook County Public Guardian (<http://www.publicguardian.org>). Otherwise, guardianship may be overseen by the Office of the State Guardian, which is the biggest guardianship agency in the United States (<http://gac.state.il.us>).

Strengths of Guardianship

Guardianship can have a tremendously positive effect on the life of an older adult, who suffers from severe impairments and requires help and care. If done in a careful, appropriate manner, it can be a vehicle for providing safety and quality assistance for

someone in need. A legal guardian can provide reliable advocacy, and facilitate socialization, housing, and health maintenance (Fred, 2003; Duke, 1997). As Hull et al (1990) state “A court’s action in appointing a guardian or a conservator is aimed in part at *stabilization* or services to sustain some quality of life and a sense of well-being” (p. 146).

It has been recognized that there are individuals who desire having official assistance in their lives, because they are aware that they are unable to manage under cognitive and/or physical stressors (Rein, 1992; Quinn, 2005). It is especially important that have help when individuals are unable to express their wishes in any way, such as being in a coma. Guardianship is invaluable if designated persons through Power of Attorney documents refuse to adhere to promises as decision-makers and the older adult is suffering because of it (Reynolds, 2002) or if there is no one to serve in this type of capacity (Rein, 1992; Barnes, 1992).

Weaknesses of Guardianship

Although there is only modest research about guardianship in the United States, most of the literature focuses on the weaknesses and problems with the systems in almost every state, including Illinois. There is good cause for concern and criticism, as well as substantial evidence for reform of the powerful legal process (Hull et al, 1990). The

following concerns are not the focus of this research, but are important to mention, including: lack of uniform, coherent interstate laws and regulations, which create confusion with communication between states and transferring of cases (Barker and King, 2001; Hull et al, 1990; Smyer, 1993; Yeoman, 2004; Crampton, 2004; Fred and Enbar, 2001); many states still hold guardianship within Probate Courts (Zimny and Grossberg, 1998), which eludes to a focus on money and property (Staudt, 1985) rather than individual needs; lack of appropriate funding to the guardianship court system, public and state guardianship agencies (Barnes, 1992; Graduate Center for Gerontology; Department of Health Behavior, 2005), as well as being burdened by caseload strain, so that wards do not receive adequate attention (Teaster, 2002; Wilber, 1997; Angelari, 2003).

Guardianship data and statistics are difficult to access and little is automated (Wilber, 1997; Fred and Enbar, 2001). Most states have difficulty monitoring cases to find out if wards are being appropriately cared for by family, professional guardians, corporations, public or state agencies, and there has been suggestion of a registration system to help keep track of guardianships (Fred and Enbar, 2001 Fred, 2003; Graduate Center for Gerontology, Department of Health Behavior, 2005; Arai and Homma, 2005; Quinn, 2005). For family guardians, there is little or no formal training or education provided to understand their legal roles, powers, and limitations (Fred, 2003; Fred and Enbar, 2001). Judges produce few “opinions” on cases, which make it difficult to understand their rulings and argue for a retrial or evaluation of the case (Rein, 1992, p. 1880).

One glaring problem for all states is that there appears to be a significant lack of due process for respondents in guardianship cases (Wilber and Reynolds, 1995; Fred, 2003), which is likely due to the quick, easy, flexible, primarily uncontested, informal and perfunctory nature of the system (Bell, Schmidt, and Miller, 1981; Staudt, 1985; Angelari, 2003; Regan, 1981). There is a noted absence of “procedural safeguards for the proposed ward” (Staudt, 1985, p. 206). For example, guardianship laws tend to be vague and subject to various interpretations that can work against a respondent. Notice about guardianship proceedings has been found to be inadequate, as well as confusing to the respondent, who likely does not have a thorough education in legal terminology. Respondents are often not at the hearings because of inability, lack of understanding, and support (Angelari, 2003; Teaster and Roberto, 2002; Moye, 1999). Mitchell (1978) states the “maintaining the rights and liberties of the ward to the maximum extent possible does not seem to be a priority in creating a guardianship or conservatorship” (p. 453). Reform has focused on the need to provide clear information about the substance of guardianship, the serious consequences of such actions to a person, his or her rights to be at the hearing to discuss his or her views, wishes, etc., as well as to have legal representation (Keith and Wacker, 1993; Horstman, 1975; Mitchell, 1978; Moye, 1999).

In regard to legal assistance and/or secondary evaluations for the respondent, it seems ludicrous that a person, who is likely an unwilling participant in guardianship,

must have to pay to for representation and to receive other medical or psychiatric opinions to assist in his or her “defense” (Illinois Probate Act, 2004). Also, the researcher believes that it is the courts obligation to find appropriate transportation to assist a respondent to the hearing, if necessary. The researcher finds lack of notification or consideration of friends and/or private caregivers a travesty, considering that those individuals may have useful knowledge about the respondent (Illinois Probate Act, 2004). There are articles and commentary that indicate having the respondent at the hearing is detrimental to his or her well being due to possible adversarial positioning (Keith and Wacker, 1993; Hull et al, 1990; Schmidt, 1995) however, the researcher believes that the respondent not having a voice in his or her own destiny is much more damaging.

Therapeutic Jurisprudence focuses on the “psychological and emotional impact of law, legal procedures, and legal actors” (Schma, 2008). Therapeutic Jurisprudence allows the respondent meaningful participation in the proceedings, where the respondent has the ability to “respond” and make clear his or her feeling, beliefs, and preferences about what is appropriate for him or her self. It is the responsibility of the court to make the experience open and non-threatening, and to clarify laws and legal procedures for respondents to the best of their ability (Hull et al, 1990). Due to the nature of guardianship, it would seem plausible that the proceeding would be somewhat therapeutic and caring toward the respondent, since he or she has not likely been exposed to a legal environment before, and is an older adult, who may be suffering from debilitating health problems (Wexler, 2008; Glaser, 2003; Iris, 1990). Not providing due process and therapeutic jurisprudence is an additional oppression of civil liberties (Staudt, 1985).

Third Party Interests

Although, most guardians do have the best interests of the ward in mind, there is growing concern about third-party interests taking precedence at times. There is evidence of financial exploitation and other abusive behaviors by families, agencies, and private corporations, which place the ward in harm's way (Wilber, 1997; Alexander, 1990; Barnes, 1992; Angelari, 2003; Hull et al, 1990). According to Rein (1992), health care and residential care facilities have been known to petition for guardianship primarily with the intent for "money collection of outstanding bills and/or to evict the elderly and disabled from their facilities (p. 1827). However, family members are majority stake holders in guardianship petitions and at times find their own needs to be more important than the respondent's, especially if they interpret the respondent as wasting their inheritance (Rein, 1992).

It is known that Probate courts tend to prefer family members to act as guardians for their elders, even if it is not either's preference, because it lowers the number of guardianships given to public or state agencies. However, this may increase the likelihood for abuses of the older adult due to family and/or guardian stress, lack of knowledge, education, and supports (Hull et al, 1990). A family guardian under these circumstances may feel a "right" to monies earmarked for the older person, as a form of payment for caring for them (Rein, 1992), which is really financial exploitation. It is often believed by courts that if a family member is guardian, he or she will "always act

for the benefit of the older person with impaired capacity” (McCawley, et al, 2006, p. 20). It is of utmost importance for the court to have information which may show that inappropriate third-party interests are at play. Rein (1992) explains that

the petitioner should be required by statute to prove by clear and convincing evidence that such a drastic step is absolutely necessary to protect third-party or societal interests of the highest magnitude - - i.e., the life and physical safety (not just convenience, emotional reassurance, or financial hopes) of others – from an imminent threat of serious harm posed by the ward’s behavior (p. 1870).

So the court must be provided with significant information that “society and third parties outweigh the individual’s interest in autonomy” (Barnes, 1992, p. 636) and find that the proposed guardian warrants the role.

Limited vs. Plenary Guardianship

To begin, limited vs. plenary (full) guardianship is a major issue under scrutiny by researchers and advocates. It has been found that despite evidence that certain disabled persons can be served under limited, custom-designed surrogacy, in effort to safeguard an individual’s right and support his or her functional abilities (Mitchell, 1978; Keith and Wacker, 1993; Wilber and Reynolds, 1995; Paveza, VandeWeerd, and Berko, 2002; Agich, 2003; Crampton, 2004; Fred and Enbar, 2001; Christy, McCranie, Stiles, and

Kaplan, 2004); most are adjudicated with severe plenary guardianships and their guardians are supplied with broad powers (Keith and Wacker, 1993; Teaster and Roberto, 2002; Crampton, 2004; Iris, 1990). It is believed that outright plenary guardianship reduces the likelihood that a case will return to court in the future, taking up more time and money from the system, than if a limited adjudication was handed down by a judge.

The seriousness of guardianship can be understood in that it is referred to as “a frightening, debilitating, and insensitive imposition of state authority on citizens making decisions about their private lives” (Alexander, 1990, p. 163); however, it seems ironic that these “informal and noncontroversial” (Keith and Reynolds, 1993, p. 82) cases are all too easy to bring before a court and achieve (Regan, 1981). Hull et al (1990) explained that lawyers may not be earnest in guardianship cases due to the air of “informality” (p. 151). This is quite serious when considering that plenary guardianship effectively strips away every adult right that an individual has known (Angelari, 2003; Reynolds, 2002; Wilber and Reynolds, 1995; Holstein, 1995; Schmidt, Miller, Bell, and New, 1981; Horstman, 1975; Kapp, 1992; Rein, 1992; Welte and Fulmer, 1995; Duke, 1997; Teaster and Roberto, 2002). According to Teaster (2002), “when the guardianship is plenary, the ward typically loses the rights to vote, drive, change locations, marry, control finances, transfer property, and make health-care decisions. In essence, a ward is reduced to the legal status of a minor child” (p. 344). The fact that the adjudication process can be considered informal is an affront to the respondents and wards who have found themselves, for the most part, unwillingly involved in the system.

Guardianship can be interpreted as an officious action that does not seem concerned with abetting civil rights (Mitchell, 1978; Cohen, 1978; Reynolds and Carson, 1999; Reynolds, 2002). The only other legal intervention more powerful is being imprisoned (Angelari, 2003; Reynolds, 2002). It is believed that senior citizens are faced with guardianship more, because society feels it keeps them from harm (Teaster and Roberto, 2002), but older adults “experience disproportionately negative outcomes in guardianship, either as a result of negative or compassionate ageism” (Reynolds, 2002, p. 110). Guardianship does not require acquiescence from the respondent and can devalue the wishes of the vulnerable ward (Hull, Holmes, Karst, 1990; Alexander, 1990; Rein, 1992) based on diagnoses and a statement from a physician (Hull et al, 1990; Fred and Enbar, 2001; Rein, 1992).

Medical Model

In Cook County Probate Court submission of the “Report of the Physician, CCP 0211 A-B” is primary evidence in a guardianship case that the respondent is either partially able or completely unable to manage his or her life (Illinois Probate Code, 2004; Iris, 1990). The form is rather short for being so significant to a respondent. Illinois guardianship procedures tend toward a medical model with use of physician diagnoses and statements, and possibly, a psychiatric evaluations and interpretation, which are important, but tend to ignore the fact that human beings manifest disease and illness in

individual ways and there are more functional aspects that must be taken into account (Fred and Enbar, 2001; Rein, 1992). Our society tends to focus on, disability and diagnoses (Rein,, 1992; Moye 1999; Bugental and Hehman, 2007), what the individual cannot do, rather than on what they can do, and what ways they can be enhanced and supported, which is “practically and morally deficient” (Rein, 1992, p.1820). Moye (1999) and Fred (2003) address the vagueness of statute medical criteria to determine if a person lacks decisional capacity. Moye (1999) states that “statutory definitions of competency are vague; medical evidence to establish decisional deficits is often sketchy or conclusory...” (p. 491). Although, concerns of appropriateness of diagnostic examinations have been brought forth (Grisso, 1986, Moye, 1999) they are still submitted to the court.

It has been found that medical diagnoses are incorrect and that the physicians completing cognitive evaluations include “plastic surgeons, urologists, gynecologists...”, however, “...courts are unlikely to depart from the assessment of physicians” (Rein, 1992, p. 1868). It is important to consider that there are times when a medical diagnosis is wrong and that an individual may be experiencing cognition problems for other reasons, such as medication issues, lack of caloric intake, mental health problems, family issues, isolation, visual and auditory impairments (Rein, 1992; Barnes, 1992), which may be rectified without being adjudicated incompetent. However, there is a trend for physicians to ignore expressions of feeling and thought from a patient, and thus fail to see the entire person (Barnes, 1992). Also, physicians providing documentation in a guardianship case hardly ever appear in court to testify to their findings (Rosoff and

Gottlieb, 1987). Literature has shown examples of older adults being adjudicated incompetent and placed under guardianship, who had minor disabilities (Reynolds, 2002; Crampton, 2004).

In the literature reviewed there was discussion of the use of psychiatric assessments, which include a battery of tests, which more than likely are performed in an office setting (Moye, 1999). The researcher believes that it is essential to obtain as much information as possible, through a variety of means, to fill in the picture; however, an artificial environment, where most psychiatric assessments take place, may negatively impacts the results, because it is not where the older adult normally functions. Moye (1999) accurately explains that a person's medical diagnoses are necessary in understanding the health aspects of a person, but functional abilities are most important. She discusses use of standardized measures to determine an individual's capacity; however, individuals are not "standardized" and there are other factors that impact one's ability to live his or her life.

Another factor at play in evaluating older adults is conscious or unconscious stereotyping and use of ageist generalizations within the realms of health and mental health care, and guardianship. Biases and predetermined notions of disease and disability impact decisions and cloud judgments. There is a tendency to see the disease rather than the person first (Reynolds, 2002; Agich, 1993; Rein, 1992; Barnes, 1992; Cohen, 1988; Butler, 1975; Kitwood and Bredin, 1992; Collopy, 1986; Schmidt, 1995; and Iris, 1990).

Guardian ad Litem Role

Per the Illinois Probate Act (1975) it is explained that the position of guardian ad litem (GAL) must be filled by someone will who is

qualified, by training or experience, to work with or advocate for the developmentally disabled, mentally ill, physically disabled, the elderly, or persons disabled because of mental deterioration, depending on the type of disability that is alleged in the petition (p. 9).

However, Angelari (2003) explains that despite the fact that other qualified professionals may act in the GAL role in the Illinois statute; the Illinois court system requires a licensed attorney to serve this function, “almost unanimously” (p. 8). Under the statute, the GAL is supposed to assess the respondent, give certain legal information, and provide an opinion to the court about what is the best interest of the individual (Angelari, 2003; Illinois Probate Act, 1975), which may mean adjudication as incompetent or incapacitated, and placing him or her under guardianship.

This seems to be an appallingly simple and inappropriate evaluation of a person. This is especially true, when it is not within the professional realm of an attorney to evaluate and assess whether someone requires guardianship due to incapacity of any nature. An attorney, as GAL, may not be aware of resources and programs that could

prevent guardianship and provide assistance to an older adult to maintain independence or enhance abilities. In addition, it is uncommon for the GAL to interview the potential guardian and assess his or her appropriateness to serve in the role (Angelari, 2003). Also, a GAL is not assigned in every guardianship case; however, those that are assigned a GAL are usually for cases with larger estates to pay for the attorney's time (Angelari, 2003).

The lack of true, comprehensive evaluations and assessments puts the respondent at risk for losing his or her rights forever, possibly unnecessarily, since the court has little, if anything to corroborate the petition (Hull et al, 1990) and CCP 0211 A-B. The opinion given "may not have adequate information...and the court will have difficulty understanding the degree of autonomy of which an individual is capable..." (Hull et al, 1990, p. 153).

The Role of Comprehensive Clinical Social Work Assessments

The heart of the study was exploring if there is a role for comprehensive clinical social work assessments for older adult guardianship petitions and if social workers could function in the role of guardian ad litem. One of the main criticisms of the Illinois guardianship system is lack of appropriate assessments of respondents, which leads to limited or plenary guardianships for individuals who do not require oversight (Fred,

2003). Wilber and Reynolds (1995) explain that guardianship reforms have discussed providing “assessment of the older person’s capacity and potential risk” (p. 251). Marson (2002) notes that clinical evaluations will, increasingly, become “part of the evidentiary basis for making clinical or legal competency judgments” (p. 100). Clinical social workers are steeped in the ability to complete biopsychosocial and functional assessments, to examine family relationships and dynamics, to provide service linkage and alternatives to guardianship, if appropriate, and counseling and support (Trattner, 1999).

The social work profession values advocacy, justice, and ethical treatment of all people, helping the oppressed, and assisting others to have better quality lives (Karger and Stoesz, 2005; Barusch, 2002; Blau and Abramovitz, 2004; Sonntag, 1995; Crampton, 2004). It would seem a natural fit for the social work profession to enter into the realm of the guardianship system in order to evaluate respondents’ abilities, needs, support systems, etc. Social workers can assist in determining the least restrictive ways of helping respondents, encourage them to speak up about their wishes and choices, and safeguard their rights. It may be that an individual does require plenary guardianship, but there may be ways of promoting autonomy and self-determination within that context (Spira, 2008).

Geriatric clinical social workers can assess and understand that an individual may be having cognitive problems due to dementia or stroke, but he or she may still be able to function in most daily tasks, while requiring support for others (Hull et al, 1990; Moye, 1999; Smyer, 1993). This does not mean that he or she would require full guardianship

or even limited guardianship, since there are programs and services to support the areas that require assistance. It is part of the role of social workers to determine if there are acceptable risks (Moye, 1999; Clemens and Hayes, 1997) to allow an individual to live in accordance to his or her wishes and respect his or her right to autonomy (Arai and Homma, 2005; Rawls, 1971). Adults are allowed to make poor choices or act in eccentric ways (Duke, 1997). These behaviors and choices are acceptable, as long as they are not harming themselves or others.

Social workers also understand that cognition can fluctuate depending on time of day or other factors, or it can be stronger in some areas than in others (Wilber and Reynolds, 1995) i.e. self care vs. money management. Removing some or all of a person's rights, moving them from their home, and taking away choices is an atrocity when there could be a combination of community services incorporated to assist them (Cohen, 1978). Social workers can assess and determine where help is required and where someone can continue to be independent (Mitchell, 1978).

Clinical social workers can evaluate if there are other factors impeding a respondent's abilities, such as depression, anxiety, familial issues, and medication issues (taking an anti-depressant or sedative in the morning rather than at night) (Sonntag, 1995) and obtain the necessary services or providers to address these problems. Providing quality comprehensive clinical assessments for respondents allows for evaluation of physical, cognitive, functional, relational components, and strengths and weaknesses to be explored (Hull et al, 1990). It is important to understand all of these areas and not take medical diagnoses at face value (Moye, 1999). But, most importantly, it is developing a

relationship and learning who the respondent is as a person, his or her beliefs, values, choices, wishes, and spiritual and cultural needs (Moye, 1999; Agich, 2003; Agich, 1993; Catlett, 1990; Holstein, 1995; Collopy, 1988; Welte and Fulmer, 1995), which adds a human aspect to the legal system and facilitates therapeutic jurisprudence (Glaser, 2003). This only seems fair when someone's adult rights are in the balance. The court should know who the client is and understand his or her abilities in the light of guardianship (Hull et al, 1990).

Social workers also have the experience and education to understand family dynamics. This is especially important to evaluate when a family member may become guardian. It is essential to understand what strengths, weakness, health problems, or other roles the potential guardian has that may impact being a guardian (Hull et al, 1990). It is very unlikely that the physician completing the CCP 0211 A-B, has taken the time to evaluate family issues impacting the respondent (Hull et al, 1990). Being able to assess the potential guardian, if a private, non-professional person, is imperative to the well-being of everyone involved. If the potential guardian lacks certain skills or education, the social worker can refer to counseling, social service agencies or provide psychoeducation. However, it may be determined that the potential guardian is inappropriate to serve in the role and the respondent could be at risk of abuse, neglect, and/or exploitation (Angelari, 2003; Welte and Fulmer, 1995).

Comprehensive clinical social work assessments, in addition to physician reports, will provide a fuller picture of who a respondent is and what his or her abilities, strengths, and weaknesses are. Although, there are no perfect evaluation techniques, implementing

comprehensive assessments would allow for clearer evidence for the court to make a determination about an adult's future life (Rein, 1992). This is the very least we can do for a person, who finds him or her self caught in the guardianship system.

CHAPTER III

METHODOLOGY

Metatheory

The researcher's metatheory grows out of the heuristic paradigm and subscribes to a post-positivist belief that good science does not need to follow rigid confines of logical positivism to produce useful information about ways to help those in need in our communities or to understand their issues. The researcher believes that one's genotype, environment, history, culture, religion, experiences, values, and understanding bias the way we view the world; and it is impossible to create research that is free of these characteristics. Logical empiricism set up rules that were essentially impossible to follow. Heineman (1981) explained that logical empiricists "...hoped to establish epistemological guarantees for science in order to ensure that scientific findings would reflect a reality uncolored by the preconceptions or biases of the human mind" (Tyson, 1995, p. 111).

Tyson (1995, p. 102) states that

Philosophers of science no longer rely on those logical positivist prescriptions because it is widely recognized that observations cannot simply mirror reality. Any act of knowing organizes reality according to heuristics that help us to focus on some variables and disregard others...researchers record those facts that their theories cause them to look for, and they report and integrate facts according to the heuristics they use. Accordingly, facts inevitably reflect the researcher's theory and choice of observational method.

As Datson (1992) implies, it is impossible to be completely objective or aperspectival, because we all have views that come from somewhere. Within the heuristic paradigm, the researcher believes in fallibilistic realism as it supports that all knowledge is based on construction, but some knowledge might be more truthful. The researcher's ontology is that each person defines his or her own reality. There may be some consensus of reality, but one cannot really know how someone else perceives things around him or her.

The researcher's epistemology would be attempting to find traits or patterns in others perceptions or experiences, and understanding that it must be real to the person experiencing it. Knowledge is constructed from one's perspective and no one has any grounds to claim that "one" knowledge is better than another.

Another reason the researcher subscribes to the heuristic paradigm is that it "facilitates rather than obstructs cooperation between researcher and practitioner" (Tyson, 1995, p. 207). The researcher strongly believes that practitioners make the best researchers especially in helping professions such as social work. Practitioners are in the field with clients, making direct observations, talking with clients, hearing their concerns

and needs, and getting ideas and feedback about how to make changes to help them.

Practice wisdom is very important and should be valued as such. This is especially important when exploring the use of comprehensive clinical social work assessments for older adult guardianship petitions. A clinician is able to explore the biopsychosocial needs and strengths of the respondent, to provide a clearer picture for the courts about the respondent, and advocate for the least restrictive solutions to the case. Not listening to a practitioner's level of judgment threatens the loss of important aspects of problems individual clients and communities face.

The researcher is also somewhat of a pragmatist and relates to the ideas of the charity organization society, settlement house movement, and psychiatric social work where there is belief in "methodological pluralism; a nonrestrictive approach to the variables that could be studied scientifically; and social work research actualizes values" (Tyson, 1995, p. 47).

Design Description and Procedures

Design Description

In developing a research design, the researcher was aware that observations cannot be made independently of theory. In keeping with this researcher's metatheory, it was believed that a qualitative study would produce more in-depth and richer quality information. Again, has been very little research in this area, so it was important to gain

an understanding of the content of elder law case files, as well as professionals' thoughts about guardianship work done with the geriatric population.

Researcher Biases/Assumptions

The researcher had biases/assumptions which were held in suspension during the research process in effort to have the data drive ultimate theories. Researcher biases included the following:

For case files: files would show a higher incidence of families seeking guardianship, a higher incidence of plenary guardianship over limited guardianship, a lack of knowledge about guardianship by intended family guardians/guardians, indications of potential caregiver/guardian stressors, elder abuse indications or other inappropriate behaviors would be found; family guardians would lack knowledge about their legal roles, as well as lack education through the system, and a lack of respondents attendance at their guardianship hearings, whether contested or not.

Most importantly, it was believed that more in-depth assessments on all biopsychosocial levels, including financial and environmental, research, exploration of and referral to resources and supports, and alternatives to guardianship, and knowledge of and/or assistance with care planning would be present when a social work and law student team was assigned to cases than with only a law student/law student teams.

For interviews: the researcher's assumptions were that there might be strong feelings and beliefs for and/or against the use of comprehensive social work assessments or the entry of social work into the guardianship field at all. The researcher thought that

law professionals might have feel that there is no role for social work in a traditionally legal area, but social work professionals would support it. There might have been concern over roles i.e. attorney vs. social worker and who has the most authority in a guardianship case? How would roles change? Would having social work involved promote or hinder respondents, petitioners, the court and/or the process, in general? Would attorneys believe that social workers would be acting outside of their expertise?

The researcher believed that mental health professionals would have more education and training to complete assessments and care planning, and knowledge about community resources than attorneys. In addition, the researcher believed that attorneys would oppose use of comprehensive social work assessments and social workers serving as GAL, but mental health professionals would support both.

The research design was grounded theory in the spirit of Strauss and Glaser (1998). Grounded theory promotes generating theory from a growth of events from within the data and guides a researcher's action (Strauss and Corbin, 1998; Glaser and Strauss, 1967), and assists in discovery and elucidation to close the space between research and practice (Padgett, 1998), which fits the purposes of this research.

The specific research design utilized data from four in-depth, exploratory interviews and review of eight guardian ad litem case files from an elder law clinic covering a two-year period, January 2004 to December 2007, in which the respondent was at least 60 years of age.

According to Padgett (2004) grounded theory allows the researcher to entwine "other sources of information to create a synthesis, or whole, that is greater than the sum of its parts" (p. 10). The inability to generalize the results of this study is one of the

limitations of this design due to the small sample size. However, as stated by van Manan (1990) “A phenomenological description is always one interpretation , and no single interpretation of human experience will ever exhaust the possibility of yet another complementary, or even potentially richer or deeper description” (p. 31). The effort of this research was to learn about the evidence of case file work and the thoughts of interview participants.

There are threats to internal and external validity with a qualitative design as this researcher must rely on what participants express, which are clouded by their own experiences and biases. This is also true for case file information, which are a collection of others thoughts, opinions, actions, and beliefs. In addition, the researcher’s own experiences and feelings color and shape what is heard, seen, and read (Strauss and Corbin, 1998). Again, the researcher acknowledges biases by being a practicing geriatric social worker and having first hand knowledge of ageist practices and social ignorance, as well as the antiquated legal guardianship system. Throughout the process, the researcher needed to keep her own feelings and beliefs in check throughout the process, as the researcher was the only interviewer and primary case file explorer.

The researcher employed another social worker, who is an Illinois Licensed Clinical Social Worker, and has many years of experience working as a geriatric social worker, to assist at the case file review and coding of both case file and interview data, as a means of comparison and understanding about what the data is showing, code validity, and inter-rater reliability. The assistant signed a confidentiality agreement prior to beginning the research (Confidentiality Agreement – Appendix A). The researcher and the assistant maintained written logs about what was found in the case files and made

comparisons of that data. There was possibility of additional biases on the part of the assistant, who has opinions about geriatrics, professions, policies, and practices. The researcher kept a journal about experiences and reviewed personal feelings regularly. The researcher's own clinical experiences deeply influenced the desire to learn more about policies and practices that affect our older adult population, if they are appropriate, and if there is a need for change.

Conceptualization and Operationalization

There was no prior operationalization or defining of information that was obtained from interviews and in the elder law case files. By using a qualitative method the researcher was not trying to prove or disprove anything, but attempting to gain an understanding. The researcher was trying to avoid what Danziger (1985) referred to as a "methodological circle where methods based on assumptions about the nature of the subject matter only produce observations which must confirm these assumptions" (p. 1). The researcher was honored to learn from other professionals about their years of experience working with older adults in their respective fields. It was understood that they may have very strong feelings and opinions about their experiences with senior citizens, policies and practices, social and institutional structures, and laws. It was also a very special opportunity to review the rich information held in the elder law case files, since researchers usually are unable to access such files.

Procedures

Sampling Plan

Case Files

The case files were of primary significance to the study, since they were evidence of the students work efforts as Guardian ad litem by social work and law student teams or a law student(s) only. It was interesting to explore the differences between how cases were handled depending on, who was working on them, the depth of investigation, and avenues explored for a variety of issues. Case file exploration is a valid source in qualitative studies (Tesch, 1990; Strauss and Corbin, 1998; Grinnell (2001).

The researcher obtained permission (Case File Consent – Appendix B) from an elder law practice to access Guardian ad litem (GAL) case files from older adult guardianship cases. The signed Case File Consent is kept in a sealed envelope in a locked cabinet at the researcher's home and will be destroyed three years after project completion. Access was granted due to the lack of confidentiality extended to such cases due to the GAL role as relaying information about the individuals not representing them as clients (no attorney-client confidentiality). No consent was obtained from guardianship parties as the researcher believed that a higher level of confidentiality and protection would be maintained through lack of request/notification rather than mailing

letters or leaving voicemail messages, which anyone could have potentially accessed about the respondent/ward and/or family involved.

The criterion for inclusion into the study was that the respondent or ward had to be at least 60 years of age, which was due to the State of Illinois defining an older adult as 60 years or older for various social services programs i.e. Illinois Elder Abuse and Neglect Program (Statute – Aging 320 ILCS 20/Elder Abuse and Neglect Act, 1988). Specific files were selected where there were no indications that the respondent had developmental disabilities, because this researcher was primarily interested in individuals, who had likely lead independent adult lives. The case files had either a law student/law student team or social work/law student team acting as GAL. Cases represented a period between January 2004 – December 2007 in effort to obtain samples of case prior to a social work/law student team program and after. In addition, the elder law practice chose to seek consent from students, who acted as GAL, to allow their files to be explored for a confidential study, so only those files where students agreed were available to the researcher.

There was no disclosure of names, address, or dates of birth about any of the persons involved with these cases. The identified case files remained within the elder law practice at all times and kept in locked cabinets for security purposes. No files were removed from the premises. In addition, the office was locked overnight and on weekends.

Interviews

The researcher planned to interview two professionals from the fields of elder law and geriatric mental health care. Participants had to be licensed or certified in their specific profession, have at least two years working knowledge of older adults, and practice in Cook County, Illinois.

A number of letters were mailed to potential participants, explaining the study and requesting participation (Interview Letter – Appendix C). The sample of convenience targeted pre-determined individuals from each stated profession and allowed for self-selection into the study. There was researcher bias regarding who received letters, since the sample was comprised of professionals, whom the researcher may have previously worked with on clinical cases or had known through other professional experiences i.e. past referral resources for medical care, mental health care, legal assistance, etc.

Additionally, there was bias, since those receiving letters may have had some connection with social work and may have a good understanding of the role of the profession. However, a convenience sample is efficient in that an appropriate sampling group is already identified and available (Grinnell, 2001; Anastas, 1999).

After two weeks of mailing the letters, the researcher contacted letter recipients by telephone to ask if they were interested in participating in the study. Those individuals who responded first were chosen for the study. At the designated interview, the researcher had each participant sign a participation consent form (Consent Form – Appendix D); however, no one's name or place of business was identified in the study. The signed Consent Forms are kept in sealed envelopes in a locked cabinet in the

researcher's home and will be destroyed three years after the completion of the project.

Informed consent was necessary so that participants understood what the research study was about, what they were expected to do and how their information was to be used (Grinnell, 2001).

The sampling plan also has limitations due to strict criteria for case file inclusion and voluntary interview sample.

Description of the Subjects

Case Files

After an initial review of approximately 23 elder law cases and applying the criterion, only 8 elder law Guardian ad litem case files were found to be appropriate. Each file was lettered A – H. A – D were law student/law student team cases (Law) and E – H were social work and law student team cases (SW/Law). However, after thorough exploration of Case C, it was determined that not enough work had been done for proper inclusion into the study due to neither the respondent nor the petitioner/intended guardian cooperating with the GAL. The parties believed that guardianship would prevent a foreclosure and when they learned that was not accurate, they requested termination of the proceedings. The judge eventually excused the case, so that case was dropped from the study.

Case A – Law involved an 84-year-old respondent, who was a married, male with dementia living in a nursing facility. The respondent's daughter petitioned to become his

plenary guardian, since the respondent's wife, who had been shown to be abusing him, had abandoned him.

Case B – Law involved a 60-year-old respondent, who was a single, male with chronic mental illness living in a V.A. psychiatric facility. The respondent's brother petitioned to become his plenary guardian.

Case D – Law involved a 63-year-old respondent, who was a single, male with dementia living in a nursing facility. The respondent's sister initially petitioned to be his limited guardian of the person, but was found unfit due to elder abuse. The respondent also contested having his sister as guardian. The respondent was removed from his home and placed in a facility where he had difficulty adjusting to his surroundings. The student attempted to have the respondent's daughter serve as guardian, but she was unfound to be unreliable, so the Office of the State Guardian was appointed.

Case E – SW/Law involved an 84-year-old respondent, who was a widowed, female with dementia living in a nursing facility. The respondent's daughter had been housing the respondent and providing care for many years until the respondent's recent health problems. The respondent and the intended guardian were reported to have a close relationship despite the fact that the respondent was known to have violent outbursts. The daughter petitioned to become the respondent's plenary guardian and planned to bring the respondent home to provide in-home home health services; however, there was disagreement among the medical professionals and nursing home professionals about discharge from the nursing facility.

Case F – SW/Law involved a 78-year-old respondent who was a married, male with dementia living in a nursing facility. The respondent's wife petitioned to become

his limited guardian of the person and wished for him to return home with care, if deemed acceptable by professionals. The respondent's biological children and his sister partially contested the intended guardian becoming guardian because of family conflict and the intended guardian being elderly.

Case G SW/Law involved a 75-year-old ward, who was a single, male with profound hearing impairment, since birth, living in his family home. The ward already had a limited guardian of the estate with a private bank acting as guardian. The ward's sister provided limited care and support to the ward.

Case H SW/ Law involved a 60-year-old respondent/ward, who was a married, female with a drug addiction and/or chronic mental illness. The respondent's daughter petitioned to become her plenary guardian and was then awarded guardianship. However, the case continued to be overseen by the court through the GAL due to the guardian having chronic problems managing the ward's needs.

Interviews

The researcher was able to interview two elder law attorneys and two mental health professionals, both clinical social workers. Law participants were designated as Law1 and Law2, and social work participants were Mental Health1 and Mental Health2.

Law1 was an elder law attorney practicing six years in Cook County. Law2 was an elder law attorney practicing approximately 20 years in Cook County.

Mental Health1 was a licensed clinical social worker with a primary focus in geriatrics practicing 15 years in Cook County. Mental Health2 was a licensed clinical social worker with a primary focus in geriatrics practicing 29 years in Cook County.

Data Collection

Case Files

Twice a week, approximately 6 hours a day, for one month, the researcher and the research assistant explored the entire contents of the 7 case files, including, petitions, medical and financial records, case logs, memos, orders from the court, any and all reports. Using exploratory questions (Appendix E) developed by the researcher, the research team hand-recorded data in notebooks from individual review of each case. The researcher and the research assistant independently explored each case. Once finished, a comparison was made of the data each found. When questions arose, re-review of the case(s) was completed until agreement was reached by the team.

Interviews

The researcher alone conducted in-depth interviews with each self-selected participant individually in a private place of convenience for them, for example, an office or home, where they indicated feeling relatively comfortable and free from outside interruption. The researcher used a small audio-tape machine to record each interview in effort to retain as much information as possible. Interviews were approximately one-hour in length. The researcher's data collection process was interventionist, as semi-structured, mostly open-ended questions (Research Questions - Appendix F) were asked of each professional in effort to facilitate discussion about the topic (Grinnell, 2001; Strauss and Corbin, 1998). This allowed each person to express him or her self in his or her own words (Marshall and Rossman, 1999).

Field Notes and Memoing

The researcher and the research assistant created field notes and memos regarding opinions about the content and aspects that "stuck out" or seemed important in case files. The researcher also kept field notes and memos about interviews an effort to capture additional information from participants in observing their comportment and affect, as well as to document how the researcher thought and felt about what was being expressed

by participants (Marshall and Rossman, 1999; Strauss and Corbin, 1998; Grinnell, 2001). These notes are a more analytical description of data and are “crucial to developing theory...they force the analyst to work with concepts rather than with raw data” (Strauss and Corbin, 1998). Memos give more direction for theorizing. It is essential to the qualitative process to memo, otherwise, insights or thoughts about the data can be lost, and add richness and depth to the analysis process (Stern, 1995).

Transcription

Recorded audio-data was transcribed by the researcher, which allowed visualization and easier reference of information (Anastas, 1999). However, audio content was lost due to a lack of recording clarity, which limited and flawed the data obtained. The researcher kept detailed field notes in effort to limit misunderstanding and confusion about recordings and meanings implied by interview participants (Anastas, 1999). Once the interviews were transcribed, the researcher can begin to deduce meaning from the data (Anastas, 1999), which flowed into the coding process. The interviews were meant to personalize the research and add professional insight about the guardianship system.

The tapes, transcripts, and notes were kept in a lock-box, which were held in the researcher's home, and only the researcher knew the combination and had access to the box. The all raw data will be destroyed at the completion of this project.

It is understood that with a qualitative study, the researcher must rely on the content of case files as an accurate description of the work done by students and what the participants tell to be “true” from their own perspectives. There is no way to know an “absolute truth” or to absolutely understand their experiences. According to Tyson (1995) “One cannot know for sure whether one person’s communication about his or her experience can be accurately understood by another person” (p. 223). Again, the researcher’s interpretation of the information will also be clouded by experiences, feelings and beliefs. Hoyt stated “How we look influences what we see, and what we see helps determine what we do” (p. 1014). The researcher also recognizes that even with open-ended questions, the researcher is still trying to guide them toward divulging certain types of information. According to Tyson (1995) it is important to give ample consideration to how questions are worded and presented as this directly influences responses (p. 378).

Coding

Once all of the interviews were transcribed and the case files explored, the researcher applied open coding, which is an in-depth examination of the written data by word, sentence, and/or paragraph. Through analytical open coding “concepts are identified and their properties and dimensions are discovered in the data” (Strauss and

Corbin, 1998). The researcher attempted to be skillful and receptive to the data in order to begin to theorize (Glaser and Strauss, 1967). The process of coding advanced through multiple stages with constant comparison made in effort for theory to emerge from the data (Glaser and Strauss, 1967; Strauss and Corbin, 1998).

The process of coding was evolutionary. By using paper and pen, this researcher began with basic word analysis, then advanced to sentence analysis; however, this process seemed to produce redundant results, so after much contemplation, the researcher determined that the primary elements under investigation in the case files were parts of a comprehensive assessment, as well as the various roles of the various guardianship parties, the professionals, and students involved. Based on the exploratory questions used to investigate the files and interviews, the researcher had pre-determined codes, which needed to be fleshed out.

Thus the researcher then stepped away from the data and determined, with the help of the research assistant, what components comprise an assessment. Through this process concise categories and subcategories were generated. Through these efforts categories and clusters were created in response to similarities (Tesch, 1990; Glaser and Strauss, 1967; Strauss and Corbin, 1998). Then an axial coding process will be applied, which is “the process of relating categories to their subcategories”. It is defined as “axial, because coding occurs around the axis of a category, linking categories at the level of properties and dimensions” (Strauss and Corbin, 1998, p. 123). By reduction of data, core or central categories were grown out of the axial coding procedures. These categories are the essences of other categories and knit things together to create a whole (Glaser and Strauss, 1967). During this process, the researcher made “maps” of how

subcategories related to the primary categories. Through this process the researcher developed a theory driven code book (Code Book – Appendix G) due to significant clinical social work experience and use of comprehensive assessments, and knowledge of the guardianship system. The limitation of predetermined codes is that it can potentially narrow the focus of the researcher and other options may be overlooked.

Once the codes were developed and defined, the researcher entered the codes into the qualitative data analysis program, NVivo 8 (2008), as “tree nodes” (Bazeley, 2007, p. 69), which allows for the linking together of categories and subcategories. The coding process occurred as a partnership between the researcher and the research assistant where each case was co-coded in effort to produce inter-rater reliability. Boyatzis (1998) explained that reliability as “consistency of judgment” (p. 146).

After all of the data, case file and interviews were coded, the researcher then ran a “coding summary” (Bazeley, 2007, p. 94) to review which codes were used and to verify that data was coded appropriately. The next step was to create comparisons of various essential categories through “matrix coding queries” (Bazeley, 2007, p. 143), which illustrates which codes were found in cases and/or interviews. Finally, the researcher created “node” charts of significant categories to provide a more in-depth view of the percentages of content coverage.

Materials

The researcher required little equipment in the form of notebooks, pens, drawing paper, audio-tape recording equipment, and a student license for NVivo 8 (2008).

Ethical Considerations

The researcher obtained written consent from the elder law practice (not shown due to confidentiality), which in turn obtained consent from students, and the interview participants. Those parties involved in the actual guardianship cases were waived from requiring consent in effort to maintain a higher level of confidentiality about those individuals. The researcher used letters to identify case files and numbers to identify interview participants. Although some case content is given, the researcher made sure the names, contact information, and dates of birth were removed. The interview participants were also not identified by name nor contact information.

CHAPTER IV

RESULTS

A total of eleven research subjects, both live participants and case files, comprised the data for this project. Through the coding process primary categories emerged. The brief titles of those categories are “Type of Guardianship,” “Contested Guardianship,” “Guardianship Granted,” “Petitioner,” “Intended Guardian,” “Respondent/Ward,” “GAL Guardian Ad Litem,” “Legal Documents and Practices,” “Demographics,” “Biological,” “Psychological,” “Social,” “Environmental,” “Financial,” “Activities of Daily Living,” “Plan of Care,” “Elder Law Attorney,” “Guardianship Reform,” “Use of GALs,” “Plenary vs. Limited Guardianships,” “Tools and Procedures,” “Role of Social Work,” “Training and Education of Family Guardians,” “Concerns with Family Guardians,” “Creation of Care Plans,” “Percentage at Hearings,” “Therapeutic Jurisprudence,” “CCP 211 Reports,” “Comprehensive Social Work Assessments,” “Social Workers as GAL,” “Interdisciplinary Partnership,” “Knowledge of Supports and Resources,” “Training to Complete Comprehensive Assessments,” “Years of Practice,” “Geriatric Social Worker,” “Knowledge of the Guardianship System,” “Knowledge of Family,” and “Role of Social Work”.

The following is a summarization of key results found in the study. For complete research results refer to Appendix H.

Law Cases

TABLE ONE. Student Work Product Matrix Comparison

	A : A Law	B : B Law	C : D Law	D : E SW Law	E : F SW Law	F : G SW Law	G : H SW Law
1 : Exploration of Medical and or Psychiatric Records	0	0	1	1	1	1	1
2 : Education about Guardianship	0	1	0	1	1	0	1
3 : Support and Resources Given	0	0	0	1	1	1	1
4 : GAL Reports Submitted to the Court	1	1	1	1	1	1	1
5 : Assessment Plan	1	0	0	1	1	1	1
6 : Emails	0	0	0	0	0	1	1
7 : Phone Call Interviews	1	1	1	1	1	1	1
8 : Letters	1	1	0	0	0	1	1
9 : Research	0	0	0	1	1	1	1
10 : In-Person Interviews of Parties Involved in Case	1	1	1	1	1	1	1
11 : Weeks	1	1	0	0	0	0	0
12 : Months	0	0	1	1	1	0	0
13 : Year or more	0	0	0	0	0	1	1

Table One displays the student work product completed in each case file (see Appendix H, Question: What was the level of student work product for each case...?).

Cases files had evidence of the following:

- All SW/Law Cases showed that students attempted or did explore respondents/wards medical and/or psychiatric records, whereas only one Law Case gave evidence of such.
- All SW/Law Cases provided supports and resources to guardianship parties, whereas no Law Cases had evidence of such.

- Three out of four SW/Law Cases indicated that education about guardianship was provided to parties, but only one Law Case did so.
- All SW/Law Cases showed evidence of assessment plans, but only one Law Case did so.
- Three out of four SW/Law Cases indicated research being done into issues brought up in cases, but no Law Cases had evidence of such. This suggests that SW/Law teams went above and beyond to explore issues and concerns found in cases to assist in advocacy of choices, mediation between parties, and clarification of discrepancies, which again, the researcher believed would be more evident with having due to the values and goals of the social work profession.
- SW/Law GAL Reports tended to be longer in length and more in-depth than Law GAL Reports. This data seems consistent with the time SW/Law teams spent on cases and the use of comprehensive assessment plans. Also, SW/Law cases tended to have more issues/concerns brought forth or discovered, which required disclosure to the court.
- All SW/Law Teams were retained by the court longer, anywhere from months to over a year, whereas Law students/teams completed their work with weeks or months. Length of involvement likely influenced that amount of work product completed on a case. For example, as noted in Chart Two, SW/Law Case H showed evidence of the most “work product”, which is likely due to the complicated nature of the case and the issues involved.

Data is supportive of the researcher’s assumptions that SW/Law students would provide more in-depth investigations about respondents/wards due to the nature of the

social work profession's goal of well-rounded assessments. The researcher believed that SW/Law students would assist guardianship parties learn about what is available to them, which is indicative of service/support linkage in social work. The researcher also assumed that SW/Law teams would make efforts to make sure guardianship parties understood their potential roles and/or loss of rights under the law, and what options were available. The researcher believes results are a solid indication of what the social work profession brings individuals, families and communities, as well as to interdisciplinary partnerships. Having well-developed assessments plans gives structure and guidance to investigations.

However, with all data, lack of work product elements in Law Cases does not mean students failed to provide a certain level of work, but the case may have not warranted such or students did not documented their efforts.

TABLE TWO. Legal Documents and Practices Matrix Comparison

	A : A Law	B : B Law	C : D Law	D : E SW Law	E : F SW Law	F : G SW Law	G : H SW Law
1 : Mental Health Court	0	0	0	0	0	0	1
2 : Trust	0	0	0	0	0	1	0
3 : Estate Planning	0	0	0	0	0	1	0
4 : Will	0	0	0	0	0	1	0
5 : Surrogate Health Care Act	0	0	0	0	1	0	0
6 : Representative Payee	0	0	0	0	1	1	1
7 : DNR Do Not Res.	0	0	0	0	0	0	0
8 : Living Will	0	0	0	0	0	0	0
9 : Power of Attorney E	0	0	0	0	0	0	0
10 : Power of Attorney HC	0	0	0	0	0	1	0

Table Two displays indications from case files records that legal documents and practices to benefit the respondent were discussed during the course of the students' work

(see Appendix H, Question: What kind of exploration and information was provided into legal documents and procedures for the well being of the respondent...?).

- All SW/Law Cases showed indications of discussion or recommendations for completing legal documents and/or practices to benefit respondents, whereas no Law Cases displayed such. The researcher believes this is indicative for the social work professions goal to find less restrictive options for care and to preserve rights, if possible. For example, SW/Law Case G had evidence of the most alternative legal supports being discussed with the parties in the case.

TABLE THREE. Level of Guardianship Sought Matrix Comparison

	A : A Law	B : B Law	C : D Law	D : E SW Law	E : F SW Law	F : G SW Law	G : H SW Law
1 : Limited Guardianship	0	0	1	0	1	1	0
2 : Plenary guardianship	1	1	0	1	0	0	1

Table Three displays the level of guardianship (plenary or limited) that each case sought (see Appendix H, Question: What types of guardianship cases were found – limited or plenary guardianship?).

- Four cases sought plenary guardianship (two SW/Law Cases and two Law Cases); however, Law Case C, which was discarded from the study, was also a plenary guardianship.
- Three cases sought limited guardianships (two SW/Law Cases and one Law Case).

This confirms the researcher's beliefs that more cases would be plenary. This is also supported by elder law professionals' statements that "a least 9 out of 10 are plenary" and "most of plenary".

The research assistant and the researcher both had serious doubts about the appropriateness of plenary guardianship for Law Case B and believed the respondent could have been better served by electing a Power of Attorney for Health Care and/or Estate, if that had been explored. The respondent was shown to be able to identify his family members, to use money, and most importantly, to be out of the facility independently and return on his own, which indicates capacity on several levels; however, he was adjudicated totally incapable of caring for himself and given a plenary guardianship of person/estate.

TABLE FOUR. Family and Non-Family Guardianship Matrix Comparison

	A : A Law	B : B Law	C : D Law	D : E SW Law	E : F SW Law	F : G SW Law	G : H SW Law
1 : Non-family petitioner	0	0	0	0	0	0	0
2 : Family Petitioner	1	1	1	1	1	0	1
3 : Family guardian	1	1	1	1	1	0	1
4 : Non-family guardian	0	0	1	0	0	1	0
5 : Family respondent	1	1	1	1	1	0	1
6 : Non-family respondent	0	0	0	0	0	1	0

Table Four displays which cases involved family members or non-family individuals i.e. state agency seeking guardianships (see Appendix H, Question: Who were the identified parties involved in the guardianship case...?).

- Three SW/Law Cases and all Law Cases involved a family petitioner, intended guardian, and respondent. However, one Law Case was then referred for a non-family agency guardian due to elder abuse allegations.
- One SW/Law Case involved non-family respondent/ward with a private bank acting as limited guardian of estate.

In support of the researcher assumptions, the study showed that most guardianships were sought by families, family members were granted guardianships, families displayed evidence of guardian/caregiver stressors, and elder abuse indicators were found in some cases.

TABLE FIVE. Demographics Matrix Comparison

	A : A Law	B : B Law	C : D Law	D : E SW Law	E : F SW Law	F : G SW Law	G : H SW Law
1 : Gender	1	1	1	1	1	1	1
2 : Age	1	1	1	1	1	1	1
3 : Date of Birth	1	1	1	1	1	1	1
4 : Address	1	1	1	1	1	1	1
5 : Marital Status	1	1	1	1	1	1	1
6 : Culture	0	0	0	1	1	0	1
7 : Ethnicity	0	0	0	0	0	0	0
8 : Race	0	0	0	0	0	0	0

Table Five displays demographic information provided in each case (see Appendix H, Question: What types of demographic information was provided about the respondent and potential guardian...?).

- All cases had indications of gender, age, date of birth, address, and marital status.
- Three of four SW/Law Cases some description of culture.
- No cases discussed race or ethnicity.

Contrary to researcher assumptions, no cases identified race or ethnicity. The researcher was very surprised by the lack of information, especially by SW/Law teams, since social workers, in particular, are to examine race and ethnicity as part of the assessment process and understanding the person. The researcher explored this issue with the elder law practice director and learned that the director is “uncomfortable” with identifying individuals’ races and ethnicities.

In addition, the researcher reviewed the Petition for Appointment of Guardian for Disabled Person from the Circuit Court of Cook County, Illinois (http://198.173.15.31/Forms/pdf_files/CCP0200.pdf), which fails to request race and/or ethnicity of respondents. This seems like an incredible oversight in the system. It seems significant to track trends among races and ethnicities to observe difference, and possibly identify overuse/misuse for or by a particular race and/or ethnicity.

TABLE SIX. Biological Components Matrix Comparison

	A : A Law	B : B Law	C : D Law	D : E SW Law	E : F SW Law	F : G SW Law	G : H SW Law
1 : Illness History	1	1	0	1	0	1	1
2 : Surgical History	0	0	0	1	0	0	1
3 : Diagnoses	0	1	1	1	1	1	1
4 : Prognoses	0	0	0	0	0	0	0
5 : Hospitalization and Emergency Room History	1	0	1	1	0	0	0
6 : Primary Hospital	0	0	1	0	0	1	1
7 : Physicians	1	0	1	1	1	1	1
8 : Other Medical Personnel Providing Care	1	0	1	1	1	1	0
9 : Ancillary Treatments and Services	0	0	0	0	0	0	0
10 : Medications	0	0	1	1	1	1	1
11 : Nutrition	1	0	1	0	1	1	0
12 : Speech Issues	0	0	0	0	0	1	0
13 : Vision Issues	0	0	0	0	0	1	0
14 : Hearing Issues	0	0	0	0	0	1	0

15 : Assisted Devices and Technologies	0	0	0	1	0	0	0
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Table Six displays all of the biological elements of the respondent and/or guardian that were documented in each case (see Appendix H, Question: What kind of information was provided about the medical issues/background/concerns of the respondent and/or guardian...?).

- All cases included some biological elements.
- All cases, except one Law Case provided information about physicians involved.
- All SW/Law Cases and two Law Cases explained diagnoses of respondents.
- All SW/Law Cases and one Law Case provided medications taken by respondents.
- Most cases, except for one SW/Law and one Law, documented other medical professionals involved.
- Two SW/Law Cases documented hearing, speech, and/or vision issues, and/or use of assistive devices, whereas no Law Case did.
- More Law Cases gave indications of hospitalization/emergency room history, whereas no SW/Law Cases did.
- Only one Law Case provided health information about the intended guardian.

Contrary to researcher biases, all cases provided adequate biological elements with some variation depending on the case. Only one Law Case failed to document what types of medications the respondent was taking. Two law-only cases actually provided more information about hospitalization and emergency room visits, as well as health indicators for the intended guardian, which all SW/Law Cases failed to document.

TABLE SEVEN. Psychological Components Matrix Comparison

	A : A Law	B : B Law	C : D Law	D : E SW Law	E : F SW Law	F : G SW Law	G : H SW Law
1 : Psychological History	0	1	0	0	0	0	1
2 : Psychiatric Diagnoses	1	1	1	1	1	0	1
3 : Psychiatric Prognoses	1	0	0	0	1	0	1
4 : Psychiatric Professionals	0	1	1	1	0	0	1
5 : Cognitive evaluation	1	1	1	1	1	1	1
6 : Dementia Indicators	1	0	1	1	1	0	0
7 : Suicide Screen	0	0	0	0	0	0	1
8 : Alcohol and Substance Abuse Screen	0	0	1	0	0	1	1
9 : Behavioral and Thought Content Concerns	0	0	1	1	1	0	1
10 : Adjustment Issues	0	0	1	0	0	0	0

Table Seven indicates psychological elements about the respondent/ward and/or guardian found in case files (see Appendix H, Question: What kind of information was provided about the psychological issues/background/concerns about the respondent and/or guardian...?).

- All cases had some psychiatric indicators.
- All cases, except one SW/Law Case, listed psychiatric diagnoses. However, this was due to no indications of psychiatric issues.
- All cases indicated cognitive evaluations.
- Three SW/Law Cases and one Law Case described alcohol and substance abuse concerns, as well as behavioral or thought content concerns.
- Two SW/Law Cases and two Law Cases noted psychiatric professionals involved.
- Two SW/Law Cases and two Law Cases had dementia indicators.
- Two SW/Law Cases indicated psychiatric prognoses.
- Only one SW/Law Case and one Law Case showed psychiatric history.

- Only one SW/Law Case had indications of a suicide screen.
- Only one Law Case indicated adjustment issues.

Contrary to researcher assumptions, all cases provided seemingly appropriate documentation of psychiatric elements of the respondent with some variation depending on the case. Reports of psychiatric issues and evaluations seemed consistent with respondents' backgrounds. Those cases with more severe psychiatric needs had more elements and visa versa.

TABLE EIGHT. Social Components Matrix Comparison

	A : A Law	B : B Law	C : D Law	D : E SW Law	E : F SW Law	F : G SW Law	G : H SW Law
1 : Education	0	1	0	0	0	1	0
2 : Employment and Work History	1	1	0	1	0	1	0
3 : Family	1	1	1	1	1	1	1
4 : Family Dynamics	1	1	0	1	1	1	1
5 : Conflictive	1	0	0	0	1	1	1
6 : Supportive	1	1	0	1	1	1	1
7 : Physical Abuse	1	0	0	0	0	0	0
8 : Sexual Abuse	0	0	0	0	0	0	0
9 : Confinement	0	0	0	0	0	0	0
10 : Emotional Abuse	0	0	0	0	0	0	0
11 : Passive Neglect	1	0	1	0	0	0	0
12 : Willful Deprivation	1	0	0	0	0	0	0
13 : Financial Exploitation	1	0	1	0	0	0	0
14 : Referred to Adult Protective Services	0	0	1	0	0	0	0
15 : Court Action	0	0	1	0	0	0	0
16 : Friendships	0	0	1	0	1	1	0
17 : Religion and Spirituality	0	0	0	0	1	1	1
18 : Pets	0	0	0	0	0	0	0
19 : Community Support Services	0	0	0	0	1	1	1
20 : Hobbies and Activities	0	0	0	0	1	1	0
21 : Volunteer Activities	0	0	0	0	0	1	0

Table Eight displays social elements of the respondents/wards and or guardians found in case files (see Appendix H, Question: What kind of information was provided about social issues/background/concerns about the respondent and/or guardian...?).

- All cases had some evidence of social components noted.
- All cases indicated families associated.
- All cases, except one Law Case, had family dynamics indicators.
- Two Law Cases showed elder abuse indicators, but only one was referred to adult protective services and court action.
- Two SW/Law and two Law Cases indicated work history and employment.
- Two SW/Law Cases and one Law Case noted friendships.
- Three SW/Law Cases documented religious and/or spiritual affiliations, whereas no Law Cases provided evidence of such.
- Three SW/Law Cases noted community support services, whereas no Law Cases provided evidence of such.
- Two SW/Law Cases indicated hobbies, and one commented on volunteer activities.
- One Law and one SW/Law Case noted education.

In support of researcher beliefs, SW/Law Cases tended to have more information about family dynamics, friendships, religion/spirituality, community support services, hobbies, and volunteer activities. This would seem to be a direct influence of social work focus on person-in-environment. Social workers are educated to explore social aspects of individual lives and what types of supports are available to them.

TABLE NINE. Financial Components Matrix Comparison

	A : A Law	B : B Law	C : D Law	D : E SW Law	E : F SW Law	F : G SW Law	G : H SW Law
1 : Social Security Payments	1	0	0	1	1	0	1
2 : Pensions	0	1	1	0	1	1	0
3 : Assets	0	0	1	1	0	1	0
4 : Public Assistance	0	0	0	0	0	0	1
5 : Financial Instability Indicated	0	0	1	0	0	1	1
6 : Medicare	0	0	0	1	1	0	1
7 : Supplemental or Private Insurance	0	0	0	1	0	0	0
8 : VA Medical Benefits	0	1	1	0	0	1	0
9 : Medicaid	0	0	0	0	0	0	1

Table Nine displays the financial components of the respondent/ward and/or guardian found in case files (see Appendix H, Question: What kind of financial information/issues/concerns were identified regarding the respondent and/or potential guardian...?).

- All cases had evidence of some financial elements.
- All cases indicated forms of income, including social security, pensions, and/or public assistance.
- All cases, except one Law Case, had evidence of insurance coverage through Medicare, private insurance, V.A. benefits, and/or Medicaid.
- Two SW/Law Cases and one Law Case listed assets.
- Two SW/Law Cases and one Law Case referenced financial instability.

Contrary to researcher bias, all case files provided adequate financial information about respondents, although one law-only case failed to provide income amounts and insurance coverage. Inclusion of information is likely due to the Probate Court's explicit requirement of documentation about financial aspects of respondents.

TABLE TEN. Environmental Components Matrix Comparison

	A : A Law	B : B Law	C : D Law	D : E SW Law	E : F SW Law	F : G SW Law	G : H SW Law
1 : Neighborhood and Community	0	0	0	0	0	1	1
2 : Evaluation of Living Environment	1	0	0	1	1	1	1
3 : Psychiatric Hospital	0	1	0	0	0	0	0
4 : Nursing Facility	1	0	1	1	1	0	0
5 : Subsidized Housing and Section 8	0	0	0	0	0	0	1
6 : Senior Housing	0	0	0	0	0	0	0
7 : Assisted Living Facility	0	0	0	0	0	0	0
8 : Apartment	1	0	0	0	1	0	0
9 : Single Family Home	0	0	0	1	0	1	0

Table Ten displays the environmental elements about the respondents/wards and/or guardians that were found in the case files (see Appendix H, Question: What kind of environmental exploration and information was provided about the respondent and/or guardian...?).

- All cases provided some environmental elements.
- All cases commented on the type of environment individuals resided in.
- All SW/Law Cases indicated evaluation of living environment, whereas only one Law Case provided such.
- Two SW/Law Cases provided information about the neighborhood and community, whereas no Law Cases did.

In support of researcher assumptions, SW/Law Cases more comprehensive evaluations of living environments of guardianship parties and some documented information about neighborhood and community. Again, this is indicative of social work's focus on person-in-environment, as it is essential to the evaluation process to understand supports and/or barriers to functioning and quality of life.

TABLE ELEVEN. Activities of Daily Living Component Matrix Comparison

	A : A Law	B : B Law	C : D Law	D : E SW Law	E : F SW Law	F : G SW Law	G : H SW Law
1 : Medication Management	1	1	0	1	1	0	1
2 : Plan and Keep Appointments	1	0	0	1	0	1	1
3 : Be Alone	1	1	0	1	1	1	1
4 : Transportation	1	0	0	1	0	1	0
5 : Housework	0	0	0	1	0	1	0
6 : Laundry	0	0	0	1	0	1	0
7 : Telephoning	0	0	0	1	0	1	0
8 : Money Management	0	1	0	1	1	1	1
9 : Continence	1	0	1	1	1	1	0
10 : Mobility and Transfer	0	0	0	1	1	1	0
11 : Grooming	0	0	0	1	1	1	1
12 : Dressing	0	0	0	1	1	1	1
13 : Bathing	0	0	0	1	1	1	0
14 : Eating and Meal Preparation	1	0	0	1	1	1	1
15 : Level of ability to complete ADLs	0	1	1	1	1	1	1

Table Eleven displays the respondents' activities of daily living as documented in the case files (see Appendix H, Question: What kind of information was provided regarding exploration into respondents' activities of daily living, level of abilities and/or needs...?).

- All cases displayed evidence of some indicators of activities of daily living.
- All cases, except one Law Case, commented on level of ability to complete activities of daily living.
- All SW/Law Cases noted ability to bath, dress, and groom, whereas no Law Cases gave evidence of such.
- All SW/Law Cases and one Law Case noted ability to eat and prepare meals.
- All SW/Law Cases and one Law Case noted ability to complete money management.
- Three SW/Law Cases and two Law Cases commented on medication management.

- Three SW/Law Cases and one Law Case commented on ability to plan and keep appointments.
- All SW/Law Cases and two Law Cases commented on ability to be alone.
- Three SW/Law Cases and one Law Case commented on continence.
- Three SW/Law Cases noted mobility and transfer, whereas no Law Cases did.
- Two SW/Law Cases and one Law Case noted transportation.
- Two SW/Law Cases indicated housework, laundry and telephoning, whereas no Law Cases did.

All cases documented aspects of ADLs, however, is support of researcher assumptions, SW/Law Cases clearly explored more specific activities of daily living to provide a well-rounded picture of respondents' abilities. This seems very important in understanding what ways an individual requires assistance, especially regarding service linkage.

TABLE TWELVE. CARE PLAN COMPONENTS MATRIX COMPARISON

	A : A Law	B : B Law	C : D Law	D : E SW Law	E : F SW Law	F : G SW Law	G : H SW Law
1 : Emergency Hospitalization	0	0	0	0	0	0	1
2 : Additional Guardianship Assistance	0	0	0	0	0	1	0
3 : Housing for Individuals with Disabilities	0	0	0	0	0	1	0
4 : Senior Housing	0	0	0	0	0	1	0
5 : Assisted Living	0	0	0	0	0	1	0
6 : In-Home	0	0	0	1	1	0	0
7 : Respondent Assistance and Feedback about Plan of Care	1	1	1	1	0	1	1
8 : Medical Professionals Feedback about Plan of Care	1	0	0	1	1	0	1
9 : Psychiatric Hospitalization	0	1	0	0	0	0	1
10 : Nursing Home Placement	1	0	1	1	1	0	0
11 : Crisis Intervention and Mediation	0	0	0	1	1	0	1
12 : Psychoeducation	0	0	0	1	1	0	1

13 : Respite	0	0	0	1	1	0	0
14 : Social Services	0	0	0	0	1	1	0
15 : Mental Health Providers	0	0	0	0	0	0	0
16 : Private Care or Agency	1	0	0	1	1	0	0
17 : State In-Home Care Programs	0	0	0	0	1	1	0
18 : Financial Resources	0	0	0	1	0	1	0

Table Twelve displays the elements of care planning for the respondent/wards found in case files (see Appendix H, Question: What kind of exploration and information was provided about the appropriateness of care plans for respondents and was there evidence that students assisted in care planning with the respondent, guardian and/or health professionals...?).

- All cases had evidence of some care plan elements.
- All cases displayed evidence of type of environmental placement plans, including private home (in-home), nursing facility, and/or hospitalization.
- All cases, except one SW/Law Case, provided indications of respondent assistance and feedback about care plan.
- Three SW/Law Case and one Law Case referenced medical professional feedback about care plan.
- Three SW/Law Cases showed indications of crisis intervention and psychoeducation, whereas no Law Cases provided such.
- Two SW/Law Cases indicated discussion of respite, whereas no Law Cases did.
- Two SW/Law Cases indicated social services, whereas no Law Cases provided such.
- Two SW/Law Cases and Law Case indicated private care/agency.

- Two SW/Law Cases indicated State in-home care programs, as well as two referencing financial resources, whereas no Law Cases indicated such.
- One SW/Law Case indicated additional guardianship assistance, housing for individuals with disabilities, senior housing, and assisted living, whereas no Law case did.

Care planning seemed to improve drastically with SW/Law teams, most notably in the areas of obtaining medical personnel feedback about care plans, crisis intervention/mediation, social services, in-home care providers (private and state), respite, and financial resources. This is indicative of social work's focus on partnership with parties to form the best possible plan of care.

The researcher also believes that Law Cases provided less care planning due to the nature of "typical" law GALs' reporting plans as developed by physicians and/or family, but not being involved with caring planning. This was confirmed by legal professional statements indicating that they "ask" potential guardians what the care plan will be and that not all judges require information about care planning.

TABLE THIRTEEN. Caregiver Stressors Matrix Comparison

	A : A Law	B : B Law	C : D Law	D : E SW Law	E : F SW Law	F : G SW Law	G : H SW Law
1 : Lack of knowledge about respondent or ward	0	0	0	0	0	0	1
2 : Distance	0	0	1	0	0	0	0
3 : Reliability Concerns	0	0	1	0	0	0	1
4 : Lack of Knowledge about the Role of a Guardian	0	0	0	0	0	0	1
5 : Lack of use of resources and supports for caregiving role	0	0	0	0	0	0	1
6 : Lack of supports and resources for caregiver	0	1	0	0	0	0	1
7 : Discomfort with Care Role	0	0	0	0	0	0	1
8 : Time Stressors	1	1	1	1	1	1	1
9 : Financial Stressors	0	0	0	0	0	0	0

10 : Emotional Stressors	0	0	0	1	0	1	1
11 : Physical Stressors	0	0	0	1	1	1	0

Table Thirteen displays indications of caregiver stressors for family guardians and/or caregivers found in case files (see Appendix H, Question: Did students make references concerning potential caregiver stressor?).

- All cases showed evidence of some caregiver stressors.
- All cases showed time stressor evidence.
- One SW/Law Case had indications of lack of knowledge about respondent/ward.
- One Law Case had indications of distance.
- One SW/Law Case and one Law Case showed reliability concerns.
- One SW/Law Case noted lack of knowledge about role of a guardian, lack of use of supports and resources for caregiving role, and discomfort with role.
- One SW/Law Case and one Law Case had indications of lack of supports and resources caregiving.
- Three SW/Law Cases noted emotional stressors, as well as three with physical stressors.

In support of the researcher's beliefs, all family guardians/caregivers displayed evidence of stressors. Both the researcher and research assistant disagreed that the guardian in SW/Law Case H was appropriate to serve as guardian. It was apparent that she had too much difficulty handling the needs of the respondent and making tough decisions about her care. However, since she was willing to serve, the court continued to

allow it.

Guardian/caregiver stressors seem important to address, since apparently the majority of guardianships are awarded to family members. It gives indications that the guardianship system should practice providing referral resources and/or develop its' own supportive service program.

**TABLE FOURTEEN. Contested Guardianship, Hearing Attendance
and Adjudication Matrix Comparison**

	A : A Law	B : B Law	C : D Law	D : E SW Law	E : F SW Law	F : G SW Law	G : H SW Law
1 : Contested Guardianship	0	0	1	0	1	0	1
2 : Guardianship Granted	1	1	1	1	1	0	1
3 : Indicated Wanting to Come to Guardianship Hearing	1	0	1	0	0	0	0
4 : Attended Hearing	0	0	0	0	0	0	0

Table Fourteen displays if guardianship was contested, if the respondent attended his/her hearing, and if he/she was adjudicated incapacitated by the court (see Appendix H, Question: Was there opposition to guardianship by the respondent or others, what were the reasons for opposition, did the respondent attend his or her hearing, and was guardianship granted?).

- All cases, except one SW/Law Case, indicated guardianship was granted; however the SW/Law Case involved an individual, who was already a ward of the court.
- Two SW/Law Cases and one Law Case showed contested guardianship.
- Two Law Cases had indications that the respondent wanted to attend his/her hearing.

- No case indicated that a respondent attended his/her hearing, but that does not mean he/she did not attend just that it was not noted.

In support of the researcher's assumptions, respondents' attendance at hearings did not occur (or was not documented) despite respondents' stating they wanted to attend. Once explanation is since some of the respondents, who contested guardianship, had attorneys representing them, it is likely those respondents deferred attendance to their attorney; however, that does not promote therapeutic jurisprudence of individuals, who have come under scrutiny. Evidence of lack of therapeutic jurisprudence was also evident in law interviews. Law professionals approximated that "not even 20%" (Law2) to "maybe 60%" (Law1) of older adult respondents attend their guardianship hearings.

This supports literature that criticizes the guardianship system for being to lacks in promoting respondents' rights.

Elder Law and Mental Health Professionals

TABLE FIFTEEN. Guardianship Reform Matrix Comparison

	A : Law1	B : Law2	C : Mental Health1	D : Mental Health2
1 : Expedite Guardianship Process	0	1	0	0
2 : Revise Probate Act	0	1	0	0
3 : Uniform Court Guidelines for Guardianship	1	0	0	0
4 : Access to Legal Representation	1	0	0	0
5 : GAL Guidelines for Investigation of Guardianship	1	0	0	0
6 : Automated Court Documents	1	0	0	0
7 : Uncomplicate Guardianship Process	1	0	0	0
8 : Expense	1	1	0	0
9 : More Time and Investigation	1	0	0	0

10 : Funding and Staff Availability	0	0	0	1
11 : More Time and Investigation for Assessment	0	0	1	1
12 : Education of Guardian about Role	0	0	1	0
13 : Assessment of Intended Guardian	0	0	1	0
14 : Monitoring	0	0	1	0
15 : Tailoring Guardianships	0	0	1	0

Table Fifteen displays the areas of guardianship reform mentioned during the interviews with law and mental health professionals (see Appendix H, Question: In what ways do you think the guardianship system could be improved...?).

- Only Law2 expressed the need for an expedited guardianship process and revising the Illinois Probate Act.
- Only Law1 expressed the need for uniform court guidelines, access to legal representation, GAL guidelines for investigation, and automated court documents, and uncomplicating the guardianship process.
- Both Law1 and Law2 believed that the expense associated with guardianship is a factor.
- Law1, and MH1 and MH2 indicated wanting more time and investigation for guardianship.
- MH2 thought funding and staff availability was a factor.
- MH1 believed that there should be education of the intended guardian about role, assessment of the intended guardian, monitoring, and tailoring of guardianships.

In support of researcher theorizing, all professionals agreed that the Illinois guardianship system requires reform, but they differed in the areas of reform.

Interesting was the three out of four interviewees (two social work and one law) believed more time and investigation was required into guardianship petitions.

The researcher was struck by MH1's idea of comprehensively evaluating the potential guardian. The researcher thought the process might be analogous to "home studies" done for adoptions, which can take up to a year to complete. The researcher does not believe it would take a year to assess a potential guardian, since he/she is usually a family member and likely has strong familial knowledge of the respondent, but it does seem important to evaluate whether the person is appropriate for the role, since he/she will become responsible for a person, who has been reduced to the status of a child.

Question: How accurate are physicians' statements (CCP 0211 A-B) of respondents' abilities – cognitive, physical, functional abilities?

- Law1 stated that accuracy is physician dependent. Some are very thorough and some are not.
- Law2 believed that some physicians write CCP 211s for liability protection, but believed they are "generally pretty good".
- MH1 stated that CCP 211s do not take into consideration all areas of an individual's life.
- MH2 explained that physicians had to be coached to complete them correctly.

All professionals expressed concern about the accuracy of CCP 211 documents depending on the physician completing it. This information does not lend confidence about the assessment process completed by physicians, who are making bold

statements about respondents. For the sake of rights preservation, all respondents should have the most comprehensive assessment possible.

Question: How are you prepared to conduct in-depth assessments of respondents/clients, including biological, social, financial, environmental, family issues, etc?

- Both Law1 and Law2 stated there is no training to conduct assessments of respondents, home environment, family, etc. Both agreed that experience as GALs educated them about requirements.
- Both MH1 and MH2 cited education and direct practice as preparing them to complete comprehensive assessments. MH1 mentioned continuing education also.

Data supports the researcher's assumptions that social workers would have more education about completing assessments than attorneys due to the nature of the profession. Clearly, in the assessment role, social workers would be more appropriate to serve.

Question: What type of assessment tools do you use to evaluate a respondent/client?

- Both Law1 and Law2 mentioned use of the Mini Mental State Exam and exploration of medical records.
- MH1 and MH2 mentioned tools such as the Mini Mental State Exam and direct observations.
- MH1 mentioned required assessment tools for state programs, such as the comprehensive assessment.

- MH2 discussed completing an initial assessment and Mental Health Assessment.

Data supports researcher assumptions that mental health professionals would have more knowledge and use more tools to evaluate clients than law professionals, since mental health professionals typically are trained and/or required to evaluate individuals on multiple levels.

Question: How do attorneys/social workers trained to create treatment/care plans for respondents/clients?

- Law1 indicated that attorneys do not create care plans, but ask what the plan will be.
- Law1 stated care plans are informal and not all judges require a care plan. Law2 said care plans are basic and not in-depth.
- MH1 and MH2 discussed that care planning is done with clients and/or families. Both stated that assessment of the individual is important to determine appropriate services, as well as experience through practice.
- MH1 stated education helps with preparation of care planning, as well as common sense.

In support of the researcher's assumptions, mental health professionals acknowledged involvement in care planning with clients and/or families, and that assessment of the individual, as well as professional experience, is needed to assist in development of a proper care plan. Again, social work education and professional values promote partnering with clients/families to create care plan that meet the emotional and

physical needs of individuals, as well as support self-determination.

Question: Would having comprehensive clinical social work assessments of respondents help in determination of guardianship cases and in the creation of treatment/care/service plans, if so, in what ways?

- All professionals indicated a willingness to have comprehensive social work assessments for older adult guardianship cases.

Contrary to researcher assumptions, all professionals agreed with use of comprehensive clinical social work assessments for guardianship cases.

Question: Do you think social workers can be effective in the GAL role? Why or why not?

- All professionals, except MH2 believed social workers could function in the GAL role.

The researcher was surprised that a mental health professional would not support social workers functioning in the GAL role. The researcher believed that mental health professionals would support it, but law professionals would not.

Question: Do you think social workers and attorneys should work as interdisciplinary partners on older adult guardianship assessments? Why or why not?

- All professionals, except Law2 expressed a willingness to have an interdisciplinary partnership.

Contrary to the researcher's assumptions, three out of four professionals were willing to have an interdisciplinary partnership. Law2 was in disagreement due to a negative experience with a social worker.

Elder Law Professionals Only

Question: In your opinion, how many guardianship cases are plenary/limited?

Why?

- Both Law1 and Law2 believed that there are more plenary guardianships than limited guardianships.

Again, this supports the researcher's belief that there would tend to be more plenary guardianships. The researcher believes that awarding plenary guardianships reduces the number of cases that return to court if/when the ward becomes more impaired. This does little to support the retaining rights of individuals who may have been better served through a limited guardianship.

Question: What kind of assistance or education has a family guardian needed, if any, regarding his or her role as a guardian?

- Both Law1 and Law2 believed an attorney should or does educate guardians about their roles in some form during the court process. Additionally, all guardians are given a handout from the judge explaining the duties of a guardian. Law1 stated more education is required for guardians.

In the researcher's opinion, education about the role of a guardian is insufficient. It stands to reason guardians would likely have concerns/questions/issues after

adjudication of a respondent that may not arise for months after the hearing.

“Education” from their attorneys and through the court’s “handout” likely does little to inform about reality of roles and duties. The researcher believes a training program should be developed and supports should be available through guardianships.

Question: What is your understanding of the profession of social work and its’ role in assisting people? Question: How often do you make referrals to social services and what kind of services do you request?

- Law1 understood social workers can do many things, including care planning, facilitating medical staff, communication, qualifying individuals for Medicaid, completing social benefits applications, caregiver assistance, and family dynamics.
- Law2 stated he did not know much about social work, except understanding what is occurring in a person’s life and possibly helping understand social benefits programs.
- Both Law1 and Law2 indicated referring clients to social services/social workers.
- Law1 and Law2 both mentioned specific social benefits programs, although expressed limited knowledge.

In exploration of attorney knowledge and use of the profession of social work, the researcher found that Law1 had a better grasp of the profession than Law2, which was similar to the role of social work as discussed by mental health professionals. However, both mentioned referring clients to social services in one form or another. Based on these findings, the researcher believes that there may be a lack of

knowledge about social work and how it can be effective. This is probably true of guardianship court and possibly judges would use social workers more if they understood the utility.

Question: Are you aware of any family guardian who has behaved inappropriately in his or her role as a guardian? Explain?

- Law1 mentioned a guardian not following court procedures.
- Both Law1 and Law2 discussed mishandling of respondents finances by guardians.

In support of case file data, both law professionals indicated knowledge of inappropriate family guardian behavior. The researcher believes that abuses by family guardians is likely due to role stressors and lack of education about guardianship.

Mental Care Professionals Only

Question: What was your knowledge of the family in older adult cases?

- Both MH1 and MH2 indicated issues and concerns regarding family/family dynamics.

As expected, both mental health professionals knowledge of family dynamics. This supports the researcher's theory that social workers would have more knowledge, as part of evaluation focus on how families interact. As indicated in the literature, courts typically prefer family members to be guardians, but as this study demonstrated, not all family members are suitable for the role. For example, instead of taking something at

face value – X client has a sister – a social worker is interested in what the client's relationship is with a sibling. Probate Court requires a list of immediate relatives, but not the context of relationships unless that person is the intended guardian. The researcher believes all relationships are important.

Question: What is your understanding of the guardianship system?

- MH1 understood guardianship as a law venue.
- MH1 and MH2 both felt it was there to help or protect people when there is no one else to assist them.

Supportive of the researcher's beliefs, mental health professionals had a fairly good understanding of guardianship, which is likely due to requiring knowledge about available services/programs that could help a client. Social workers, especially community-focused professionals, need to have sufficient understanding of resources as part of their profession.

Question: Should respondents come to court to speak for themselves about their needs, etc? Are there barriers/supports to providing this?

- MH1 believed that older adults have a right to be at their hearings and it is good to the judge to see them.
- MH2 believed that older adults should be informed, but part of needs assessment is whether they can find a way to get to their hearings.

The researcher was surprised that both mental health professionals did not believe all respondents should be at their hearings despite impairments. The researcher

believes transportation services should be available to individuals who find themselves in the system.

CHAPTER V

DISCUSSION

The research question for the study was is there a role for social workers to complete comprehensive clinical social work assessments for older adult guardianships cases in effort to provide a well-rounded picture of respondents' biopsychosocial life components and to help with supportive services. The data strongly suggests that social workers could effectively serve the guardianship system to complete comprehensive assessments. Social workers could possibly serve as Guardian ad litem, but professionals agreed that a partnership between law and social work would be the most beneficial, since a partnership would provide guardianship parties and the court with the best of both professions' expertise and knowledge.

Key findings from the data were:

- Through SW/Law Team efforts, students discussed and/or recommended alternative legal practices and/or documents, which may have eliminated the need to guardianship and allowed for preservation of rights.
- Overall, SW/Law Teams provided more comprehensive assessments and included more in-depth biopsychosocial information about respondents and/or potential guardians.

- SW/Law Teams showed significant efforts in documenting activities of daily living, as well as advocating for and assisting with care planning. SW/Law Teams exclusively provided crisis intervention and mediation, psychoeducation, and resources to families, including respite, social services, home health care options, and financial assistance.
- It was suggested that most guardianships are plenary, family members are usually awarded guardianships and have been found to have various forms of caregiver stressors. In addition, data suggests that family members lack proper education and support as guardians, and there have been misuses and abuses of power through their roles.
- There is evidence that respondents do not attend their hearings even when they contest guardianship, which indicates a lack of due process and therapeutic jurisprudence.
- Finally, all professionals interviewed made suggestions for guardianship reform on multiple levels.

IMPLICATIONS

Implications for Social Policy

This study gives indications that guardianship policy requires reform for the benefit of older adults. As the Baby Boomers age into older adulthood the likelihood for increased guardianships seems inevitable, which will create additional pressure on an

overburdened system. However, the Baby Boomer generation could be an impetus for guardianship reform as it has with health care reform. Their cohort culture and large numbers could influence change. Social education about guardianship seems appropriate as many people are unaware of the nature of guardianship and the impact it can have on the lives of citizens.

Part of reforms should be the addition of comprehensive assessments in effort to provide the most well rounded picture of individuals, social workers should advocate for the court to require comprehensive clinical social work assessments, which detail biopsychosocial components of individuals, investigate family relationships/dynamics, and result in more support and service linkage, and assistance in developing the least restrictive care plans. Inclusion of exploration into race, ethnicity and culture should be demanded and tracked by the system.

In addition, mandated evaluation and education of guardians appears necessary, as is psychoeducation. Having supportive services available would seem helpful too. Also, when guardians are found to be acting inappropriately, the court should take action to stop the behavior or remove them from their roles.

More time should be given to the investigation process, including exploration of the appropriateness of the intended guardian, and expense should be curtailed, especially for the respondent, who usually must pay for representation if they contest guardianship. Increased effort should be made to have all respondents attend their guardianship hearings, including transportation assistance, unless severe physical deficits are present. Finally a nationwide evaluation of all guardianship systems is necessary to compare state differences and assess for reform needs.

Social Work Practice

This study implies yet another avenue for the profession to contribute to older adults, families, and the state. Biopsychosocial assessment, support, service linkage, psychoeducation, advocacy and empowerment drive the profession. At the macro level, practitioners can encourage that establishment of mandated in-depth assessments and care planning for the guardianships. Practitioners could network with attorneys to create interdisciplinary partnerships for guardianships, which could provide a deeper level of investigation and assistance. Social workers could provide law community education about the role of social work, resources, and services available.

On the micro level, practitioners could provide respondents and/or families with invaluable assistance during a stressful time in the form of counseling, service linkage, and psychoeducation.

Social Work Education

Social work college education programs should continue to develop their gerontology programs and actively discuss how social workers can benefit older adults. In the researcher's opinion, older adults are still underserved in the area of social work primarily due to ageist stereotypes, which influence even students of social work. By providing accurate information about the realities of aging, students may feel more inclined to focus their practice in this area. Educators should continue to make paramount the practice of comprehensive assessment, care planning, race, ethnicity and

cultural issues, the effects of loss and deterioration in older adulthood, the development of relationships with clients, and the effects of social policy on society and practice. In addition, social work students should be encouraged to develop and engage in aging research.

Further Studies

The findings of the study demonstrate the need for further studies into assessment of respondents by Guardian ad litem currently being done in the system on a larger scale. Research is needed into the race, ethnicity and culture of respondents to look for trends in guardianship usage and possibly overuse. Exploration should be done into the number of guardians, who are found to behave inappropriately in their roles and the consequences of such actions.

Possibly conducting a longitudinal study where guardians are provided extensive educational classes and supports, and tracked to explore if such assistance reduces the number of inappropriate actions and abuses by guardians. In addition, a study of professional social workers functioning in active roles as GAL alone and in an interdisciplinary partnership with an attorney may be useful. Also, conducting an interview focused study with all professionals usually associated with guardianship i.e. physicians, nurses, psychiatrists, attorneys, etc. to obtain a broader scope about assessment in older adult guardianship cases.

Limitations

There are several limitations to this research study. First, being a qualitative design, the case file and small interview sample puts limits on the amount, scope and breadth of information gathered, and, obviously, the information cannot be generalized to all GAL cases and professionals, who work with older adults and their respective professions.

The number of case files that met criterion was very limited. Due to the nature of legal files and attorney-client confidentiality, the researcher only had access to Guardian ad litem cases, which are not extended attorney-client confidentiality, the adding of a time restriction (January 2004 – December 2007) and an age limit for respondents and/or wards (60 years of age or older), the possible number of eligible cases for review was severely limited. In addition, the researcher did not interview respondents or wards, petitioners, or potential guardians or guardians, of any kind, in an effort to preserve a higher level of confidentiality to those involved in the cases.

As noted, case files only show only what was documented. It is possible that more work was done on a case, but it was not recorded. Evidence of more or less or depth of work may have been situation dependent - requiring more or less attention by students; not that case work increase was social work dependent. Time variables may have influenced the level of work completed on cases, as well as the influence of team work. Additionally, student lack of knowledge and experience may have influenced their work product, even with supervision by professionals.

Interviews were comprised of two law and two mental health professionals thus provided just a tiny glimpse at the opinions and beliefs of individuals working in those professionals. However, due to the projected millions of individuals entering into the older adult population, a study of this nature is a necessary beginning exploration of how to best serve and advocate for those individuals, who may require advanced care and assistance, but in a less restrictive manner.

Conclusion

Despite the limitation of this study, it proved to be illuminating about the potential role of social work to provide comprehensive clinical social work assessments for older adult guardianship cases in Cook County, Illinois. The examination showed that more information was provided about cases when a social work and law team were assigned, as well as more work product. Overall, professionals all stated that having a social work assessment would be useful or some agreed even having social workers in the GAL role either alone or in partnership with attorneys would be appropriate.

Based on the data, the researcher believes that Cook County Probate Court should explore revision of its' practices to be more inline with its' own guidelines, as well as the Uniform Probate Code, which both elude that Guardian ad litem have education to assess the allegations of incompetence, which, as indicated in the findings, attorneys do not readily have, but social workers do. The guardianship system requires more funding and staffing, and exploration into ensuring therapeutic jurisprudence be obtained by more respondents, as 20 or 60% seems far from adequate or appropriate when someone's rights

are being taken away. Increased education for and examination of guardians should be mandated, as well as continued monitoring of cases in effort to provide the best care for those deemed unable to care for themselves.

APPENDIX A:
CONFIDENTIALITY AGREEMENT

HEATHER JONES, LCSW, Ph.D. Candidate
Doctoral Dissertation Research Project
Loyola University Chicago
School of Social Work
820 N. Michigan Ave. 12th Floor
Chicago, IL 60611
Cell (847) 877-0538

CONFIDENTIALITY AGREEMENT

I, Paul Wachowiak, LCSW, agree to maintain strict confidentiality about any information gathered from elder law clinic case files or from interview transcriptions.

Signature

Date

Heather Jones

Date

APPENDIX B:
INTERVIEW LETTER

Date:

Mr/Mrs/Dr:

Address:

Dear:

I am writing to request your participation in a 1-hour, audio-taped, in-depth interview about the importance of comprehensive clinical social work assessments of older adults for guardianship petitions in adjudication of incompetence, for a doctorate in social work research study. As a professional in the field of (elder law/health care/law), I believe you have invaluable information to lend about this issue.

The interview will be conducted on a day, at a time, and private place of your convenience. I will provide a participation consent form for you to sign at the interview.

There will be complete confidentiality in this study.

Your name and place of business will not be disclosed, i.e. in any publications, and I will not write your name on the audiotape or anywhere in my files. The signed consent will be stored inside a sealed envelope in a locked cabinet. In addition, your audiotape will be kept in a separate lock-box. I will be the only person able to access these documents.

I will contact you within two weeks to determine if you are interested in participating and to schedule a time for an interview.

Thank you for your consideration.

Sincerely,

Heather C. Jones, LCSW, Ph.D. Candidate
Doctoral Dissertation Research Project
Loyola University Chicago
School of Social Work
820 N. Michigan Ave. 12th Floor
Chicago, IL 60611
Cell (312) 613-6338

APPENDIX C:
CONSENT TO PARTICIPATE IN RESEARCH

HEATHER JONES, LCSW, Ph.D. Candidate
Doctoral Dissertation Research Project
Loyola University Chicago
School of Social Work
820 N. Michigan Ave. 12th Floor
Chicago, IL 60611
Cell (312) 613-6338

CONSENT TO PARTICIPATE IN RESEARCH

Project Title: *The Importance of Comprehensive Clinical Social Work Assessments for Older Adult Guardianship Petitions in Cook County, Illinois.*

Researcher(s): *Heather Jones, LCSW, Ph.D. Candidate*

Faculty Sponsor: *Marcia Spira, Ph.D., Associate Professor*

You are being asked to take part in a research study being conducted by doctoral student, Heather Jones, LCSW, for a social work dissertation under the supervision of Marcia Spira, Ph.D. in the School of Social Work at Loyola University Chicago.

You are being asked to participate because you are a professional with expertise in the area of aging, who has invaluable information and knowledge to lend about this subject.

Please read this form carefully and ask any questions you may have before deciding whether to participate in the study.

Purpose:

The purpose of this study is to explore if social work has a potential role in providing comprehensive clinical assessments for older adult guardianship petitions brought forth in Cook County, Illinois.

Procedures:

If you agree to be in the study, you will be asked to:

- Participate in an hour-long, audio-taped interview using questions developed by Heather Jones.
- The questions you will be asked relate to your professional expertise and knowledge of the guardianship system, including: (Law) the role of guardian ad litem, the needs of guardians and respondents, the assessment process in adjudication of incapacity, improvements needed within the guardianship process, the use of social work within legal processes. Or (Health/Mental Health) Assessment of individual needs, the tools used in the assessment process, knowledge of the guardianship system, the value and role of social work working with older adults, role of social work within the guardianship system.

Risks/Benefits: There are no foreseeable risks involved in participating in this research beyond those experienced in everyday life.

There are no direct benefits to you from participation, but this study could show that there is a need for more comprehensive assessments of older adults for guardianship.

Confidentiality:

- No identifying information about you or your place of business will appear in any work published from this research or on audio-tapes, transcripts or notes from the interview.

You will not be asked to state your name or place of business during the interview. Your name or place of business will not be disclosed at anytime during the research process or after. This consent form will be kept in a locked cabinet and the audiotape will be kept in a separate lock-box, which only Heather Jones will have access to. The signed forms will be destroyed three years after the conclusion of the study per dissertation research regulations.

- The audiotapes, notes and transcripts will be stored in a combination-lock storage box, which can only be accessed by Heather Jones. Heather Jones will be transcribing all audio-taped interviews. At the end of the research, all tapes, notes, and transcripts will be destroyed.

Voluntary Participation:

Participation in this study is voluntary. If you do not want to be in this study, you do not have to participate. Even if you decide to participate, you are free not to answer any question or to withdraw from participation at any time without penalty.

Contacts and Questions:

If you have questions about this research study, please feel free to Heather Jones, LCSW at (312) 613-6338 or Marcia Spira, Ph.D. at (312) 915-7580

If you have questions about your rights as a research participant, you may contact the Compliance Manager in Loyola's Office of Research Services at (773) 508-2689.

Statement of Consent:

Your signature below indicates that you have read and understood the information provided above, have had an opportunity to ask questions, and agree to participate in this research study. You will be given a copy of this form to keep for your records.

Participant's Signature

Date

Researcher's Signature

Date

APPENDIX D:
AUTHORIZATION FOR CASE FILE EXPLORATION

HEATHER JONES, LCSW, Ph.D. Candidate
Doctoral Dissertation Research Project
Loyola University Chicago
School of Social Work
820 N. Michigan Ave. 12th Floor
Chicago, IL 60611
Cell (847) 877-0538

AUTHORIZATION FOR CASE FILE EXPLORATION AND REVIEW

I, _____, authorize clinic case files from January 2004-December 2007, in which the clinic was in the legal role of Guardian ad litem (GAL) and the respondents or wards were 60 years of age or older, to be reviewed and explored for the purposes of a doctoral research study about comprehensive clinical social work assessments for older adult guardianship petitions in Cook County, Illinois.

It is understood that the primary researcher, Heather Jones, and research assistant, Paul Wachowiak, will review the GAL case files multiple times until the research study is completed.

In order to maintain confidentiality, there will be no disclosure of names or other identifying information about anyone related to the cases. The name of the elder law clinic will also remain confidential in the final dissertation.

Case files will remain in the elder law clinic at all times and will be stored in locked cabinets when not being reviewed.

All research data obtained from the case files will be destroyed upon completion of the dissertation.

I understand that consent is voluntary.

Signature Date

Heather Jones Date

APPENDIX E:
CASE FILE EXPLORATION QUESTIONS

Case File Exploration Questions

Did the case involve a social work and a law student team or law student(s) only and what year of education was each student, if identified?

What was the level of student work product for each case - (length of case/clinic involvement, exploration of health records, education of parties about guardianship, assessment plans, support/resources provided to parties, the number and length of Guardian ad litem reports, types of communication, in-person interviews, research completed)?

What types of guardianship cases were found - limited or plenary guardianship?

Who were the identified parties involved in the guardianship case – petitioner, intended guardian or guardian, respondent or ward, and what were the relationships among them?

What types of demographic information was provided about the respondent and potential guardian, including gender, age, date of birth, address, marital status, culture, ethnicity, and/or race?

What kind of information was provided about the medical issues/background/concerns of the respondent and/or guardian, including illness and surgical history, diagnoses, prognoses, hospitalizations/emergency room visits, primary

hospital, physicians, other medical personnel, ancillary treatments/services, medications, nutrition, speech and/or vision issues, and need/use of assistive devices/technologies?

What kind of information was provided about the psychological issues/background/concerns about the respondent and guardian, including psychological history, diagnoses, prognoses, psychiatric professionals, cognitive evaluation, dementia indicators, suicide indications, alcohol and substance abuse indications, behavioral and thought content concerns, and/or adjustment issues, if applicable?

What kind of information was provided about social issues/background/concerns about the respondent and/or guardian, including education, employment, family/family dynamics, friendships, religion and/or spirituality, pets, community support services, hobbies/activities, volunteering?

What kind of financial information, issues or concerns were identified regarding the respondent and potential guardian, including income sources (social security, pensions, assets, public assistance, and indications of financial instability) and medical insurance (Medicare, supplemental/private insurance, Veterans Administration medical benefits, Medicaid)?

What kind of environmental exploration and information was provided about the respondent and/or guardian, including neighborhood/community, psychiatric hospital,

nursing facility, subsidized housing/Section 8, senior housing, assisted living facility, apartment, and/or single family home, and evaluation of living environment?

What kind of information was provided regarding exploration into respondents' activities of daily living, level of abilities and/or needs, including medication management, planning/keeping appointments, being alone, transportation, housework, laundry, telephoning, money management, continence, mobility/transfer, grooming, dressing, bathing, eating/meal preparation?

What kind of exploration and information was provided about the appropriateness of care plans for respondents and was there evidence that students assisted in care planning with the respondent, guardian and/or health professionals, including emergency hospitalization, psychiatric hospitalization, additional guardianship assistance, housing for individuals' with disabilities, senior housing, assisted living, in-home care (home health agencies – private and/or state services) , nursing home placement, crisis intervention/mediation, psychoeducation, respondent feedback about care plan, medical professionals feedback about care plan, social services and/or mental health providers, and respite?

Did students make references concerning potential caregiver stressors?

If the respondent or others opposed guardianship, what were the reasons for opposition and did the respondent attend his or her hearing?

APPENDIX F:
EXPLORATORY RESEARCH QUESTIONS FOR PARTICIPANTS

Exploratory Research Questions for Research Participants

Social Work and Law Professional Questions

In what ways do you think the guardianship system could be improved, such as having more time to investigate, education of guardians, etc.?

How accurate are physicians' statements (CCP 211 A-B) of respondents' abilities – cognitive, physical, functional abilities?

How are you prepared to conduct in-depth assessments of respondents/clients, including biological, social, financial, environmental, family issues, etc.?

What types of assessment tools do you use to evaluate a respondent/client?

How do attorneys/social workers create treatment/care plans for respondents/clients?

Would having a comprehensive clinical social work assessment of respondents help in determination of guardianship cases and in creation of treatment/care/service plans? In what ways?

Do you think social workers can be effective in the GAL role? Why or why not?

Do you think social workers and attorneys should work as interdisciplinary partners on older adult guardianship assessments? Why or why not?

How long have you been practicing in your profession?

Elder Law Professional Questions

What kind education do family guardians receive regarding his or her role as a guardian?

Are you aware of any family guardian who has behaved inappropriately in his or her role as a guardian? Explain?

What percentage, would you guess, respondents attend guardianship hearings? Why or why not?

Do you believe assessments or evaluations of respondents by a guardian ad litem are comprehensive and appropriate? Why or why not?

How are attorneys prepared to conduct in-depth assessments of respondents, home environment, facility, family etc?

What is your understanding of the profession of social work and its' role in assisting people?

How often do you make referrals to social services and what kind of services do you request?

In your opinion, how many guardianship cases are plenary/limited? Why?

Mental Health Professional Questions

What is the role of social work in working with older adults?

What was your knowledge of the family in a guardianship case?

What is your understanding of the guardianship system?

Should respondents come to court to speak for themselves about their needs, etc? Are there barriers/supports to providing this?

APPENDIX G:
CODE BOOK

*Code Book*Elder Law Case Files

Older Adult Guardianship - legal removal of all or some of an individual's, age 60 or older, rights with the purpose of protecting him or her, providing for the needs of the individual, and or restricting behavior of the adult.

Guardianship Granted - the respondent was adjudicated disabled and plenary or limited guardianship was granted.

Type of Guardianship Sought in a Case - level of guardianship intervention sought for an older adult. Plenary - all personal and financial decisions. Limited - all personal or all financial decisions.

Limited Guardianship - Guardianship that is limited to either all person decisions or all property decisions, but not both.

Plenary Guardianship - full guardianship over all personal and financial decisions. Adjudicated adult is now legally reduced to the status of a child. He or she is no longer able to make personal and financial decisions = cannot vote, marry, enter into contracts, etc.

Contested Guardianship – anyone who was against the adjudication of the respondent, including the respondent, family, friends, agency, etc. and notified the court that guardianship was contested.

Petitioner - person or entity submitting a petition to Probate Court for guardianship over the respondent.

Non-family petitioner - a person, social service agency, hospital, nursing home, anyone not related to the respondent, who submits a petition to Probate Court for guardianship over the respondent.

Family Petitioner - an immediate (spouse, child) or extended family (aunt, cousin, etc.) member, who petitions the Probate Court for a guardian of the respondent.

Intended Guardian/Guardian/Caregiver - person or agency wanting responsibility over the respondent and/or who will be making arrangements and handling care (directly or indirectly) of the respondent or ward.

Family Guardian - a person seeking guardianship, who is an immediate (spouse, child) or extended (aunt, cousin, etc.) relative of the respondent.

Non-Family Guardian – a private party, agency or entity designated to serve as guardian of the respondent.

Caregiving Stressors and Barriers - any source of stress or other responsibilities that a caregiver/guardian has that impact his or her ability to arrange and/or provide care to the respondent.

Lack of Knowledge about Respondent or Ward - the

caregiver/guardian is unaware of the issues present in the life of the respondent and/or ward - i.e. health status, financial status, environmental issues, etc., which make it difficult to arrange or provide care for the individual.

Distance - the guardian/caregiver and respondent live at a distance (many miles away, lives in another state, etc.) that limits contact with each other.

Reliability Concerns - Issues or concerns that the Guardian ad litem has about the intended guardian/guardian to fulfill the duties/role of a guardian.

Lack of Knowledge about the Role of a Guardian - the potential guardian/guardian appears not to be fully aware of the nature of his or her guardianship responsibilities/powers and his or her role as a guardian.

Lack of Use of Resources and Supports for Caregiving/Guardianship Role
– intended guardian/guardian/caregiver has available resources and supports (community support services, family, friends, other), but does not actively use them for assistance.

Lack of Supports and Resources for Caregiver/Guardian - caregiver does not have services, resources, supports to help cope with caregiving/guardianship role.

Discomfort with Care/Guardianship Role - any aspect of caregiving/guardianship role that causes the provider with stress or makes him or her uncomfortable.

Time Stressors - the caregiver has other commitments and obligations, such as marriage, children, work, and other activities.

Financial Stressors - financial issues or problems that caregiver/guardian is coping with, which may be exacerbated by caregiving/guardianship role.

Emotional Stressors - diagnoses of mental health problems, family dynamic issues, personal problems, potential for emotional stress which could be exacerbated by caregiving/guardianship role.

Physical Stressors - physical health problems and/or strength limits of caregiver/guardian, which present a barrier to caregiving/guardianship role; level of the care needs of the respondent, which can impact the physical health of guardians/caregivers health.

Legal Representative – the potential guardian or respondent has an attorney representing him or her in the guardianship case.

Respondent or Ward - Older adult person, age 60 or older, thought to require a plenary or limited guardianship.

Family Respondent - an older adult person, age 60 or older, who is an immediate (spouse, parent, sister, child, etc.) or extended (aunt, cousin, etc.) family member of the intended guardian or guardian.

Non-family respondent - an older adult person, age 60 or older, who is thought to require an individual, agency or entity (Office of the Public Guardian, Office of the State Guardian, Private Paid Guardian) to be his or her guardian.

Respondent Indicated Wanting to Come to Guardianship Hearing - respondent expressed wish to attend his or her guardianship hearing(s).

Respondent Attended Hearing – there was evidence that the respondent attended his or her guardianship hearing.

Guardian Ad Litem (GAL) - the individuals appointed by the court to investigate and report on the respondent's need for a guardian.

Social Work and Law Student Teams - graduate level social work and law students working on older adult (age 60 and older) guardianship cases in the role of Guardian ad litem for a pro bono elder law office, which has been appointed by a Probate Court judge to investigate and report on the respondent's need for a guardian.

Law Student Only Guardian ad litem - law students, individually or in teams, working on older adult (age 60 and older) guardianship cases in the role of Guardian ad litem for a pro bono elder law office, which has been appointed by a

Probate Court judge to investigate and report on the respondent's need for a guardian.

Student GAL Work Product – work product means the time spent exploring a case; the number of interviews conducted and with whom; research into services, resources, and options to assist a respondent/ potential guardian; types communication and education given to parties involved in the case - phone calls, letters, emails; evidence of assessment planning; documentation of work done; number of GAL reports and number of pages of GAL content.

Exploration of Medical and or Psychiatric Records – case file evidence that student(s) attempted or did review medical and/or psychiatric records, and documented respondents' care, physicians, diagnoses, medications, etc.

Education about Guardianship – case file evidence that students provided education about the role of guardianship to the respondent and intended guardian/guardian (changes in respondents' legal status and the nature of guardians' obligations/responsibilities to the respondent/ward and the court).

Support and Resources Given - evidence that students provided assistance and/or resources to the respondent and/or the potential guardian/guardian/caregiver to meet apparent needs of either or both.

GAL Reports Submitted to the Court - the number of Guardian ad litem (GAL) reports that were completed and submitted to Cook County Probate Court.

Number of Pages of Content of Each GAL Report - the number of pages of content about the guardianship case for each GAL Report submitted to the court.

Assessment Plan - evidence that students created an interview/assessment plan for the respondent, intended guardian/guardian, family, medical personnel, including biological, psychological, social and financial, and environmental components of the respondents' and intended guardians' lives; evidence of the types of questions developed to assess each.

Communication - evidence of students communication with various parties involved in a guardianship case - phone calls, letters, emails.

Emails – evidence that students used electronic computer mail to communicate with various parties involved in a guardianship case.

Phone Call Interviews - evidence and number of telephone calls made regarding guardianship case.

Letters - evidence of letters sent out to various guardianship parties involved in a case.

Research – evidence of research into services, resources, options for the care and well being of the respondent, as well as support of the intended guardian/guardian/caregiver.

In-Person Interviews of Parties Involved in Case – evidence that

students interviewed all of the parties (respondent, intended guardian/guardian, family, health care professionals, etc.) involved in a guardianship case.

Number of In-Person Interviews Conducted – the number of times

students interviewed parties involved in a case.

Time - the number of weeks, months, years spent working on a case.

Weeks – case showed that students' work product was completed

over weeks.

Months - case showed that students' work product was completed

over months.

Year or More – case showed that students' work product was

completed over a year's time (12 months) or more.

Legal Documents and Practices for the Care and Well Being of an Older Adult –

Practices, actions, or documents that establish a legal agreement or relationship with another. For example, Mental Health Court Action, DNR (Do Not Resuscitate Order), Living Will, Power of Attorney for Health Care, Power of Attorney for Estate, Estate Planning Actions - Trusts and Wills, Representative Payee, Surrogate Health Care Act.

Mental Health Court – recommended or discussed pursuant mental health hospitalization for the respondent/ward via Mental Health Court intervention, because he or she is unwilling to self-admit into a facility for treatment.

Estate Planning – seeking an attorney to assist with the planning property and asset distribution to beneficiaries upon death.

Will – a notarized document explaining how the property and assets are to be divided upon individual's death.

Trust – legally placing monies, assets or properties in a secured manner or monitored account to provide an allotted amount to the beneficiary, and prevent it from being attached in law suit or liquidated inappropriately.

Surrogate Health Care Act - law that allows an immediate family member, usually in order of rank (wife, child) to make health related decisions and obtain medical information about an adult, who is incapacitate and cannot make decisions own his or her own, without the necessity of a power of attorney for health care document or guardianship of the person.

Representative Payee - an agreement negotiated with the Social Security Administration to acquire and manage the income of the beneficiary, who is deemed unable to do so on his or her own.

DNR - Do Not Resuscitate Order - a formal document, willingly signed by a medical patient stating that the individual does not want any life saving measures should bodily function cease - heart, breathing, etc. Usually the signed document is kept in the patient's medical chart.

Living Will - a formal document willingly signed by an individual specifying the degree of medical care an individual expects to receive when in a life threatening condition/situation. Specifications can range from full life saving measures (full code) to no life saving measures.

Power of Attorney for Estate - a formal document willingly signed by an individual, in which he or she names a primary agent (person) to manage some or all financial/property decisions either upon signature of document (effective immediately) or at a predetermine point of incapacity. Form must be notarized.

Power of Attorney for Health Care - a formal document willingly signed by an individual, in which he or she names a primary agent (person) to act in his or her best interest regarding health care decisions either upon signature of the document (effective immediately) or a predetermined point of incapacity.

Demographics - an individual's name, address, gender, age, date of birth, marital status, race, ethnicity, and culture.

Gender – the identified biological sex of an individual i.e. male or female.

Age – an individual's chronological age.

Date of Birth – an individual’s identified date of birth.

Address – an individual’s current housing location.

Marital Status – an individual identifies as being either single, married, in a partnership, divorced, or widowed.

Culture – an individual’s behaviors and beliefs characteristic of a particular social, ethnic, or age group.

Ethnicity – an individual's background, allegiance, association with a group.

Race – an individual’s identified racial background – Native American, Hispanic, Asian, African American, Pacific Islander, Caucasian, etc.

Biological and Health Components of an Individual - all biological and physical issues a person has experienced or is experiencing. An individual’s history of illnesses and surgeries; current diagnoses and prognoses; medications - prescribed and over-the-counter; ancillary treatments - physical therapy, occupational therapy, speech therapy, massage, biofeedback, massage therapy, etc.; physicians involved in care; other medical personnel involved in care; primary hospital; history of hospitalizations and emergency room visits; nutrition; hearing; vision, speech; use or need of assisted devices/technologies.

Illness History – an individual's history of medical illnesses – infections, cancers, strokes, broken bones, etc.

Surgical History – an individual's history of surgeries of any kind.

Diagnoses – an individual's current medical issues/needs that have been diagnosed by a physician.

Prognoses – an individual's expected course of a particular diagnoses - progressive, terminal, acute, chronic, etc.

Hospitalization and Emergency Room History - the number of times an individual has been to an emergency room or admitted to the hospital.

Primary Hospital – an individual's identified primary hospital choice.

Physicians – an individual's medical doctors used to manage care.

Other Medical/Health Professionals Providing Care – medical staff and professionals found in hospitals, nursing/rehab facilities, and/or home health agencies that provide care or assistance to the individual. Examples: Nurses, Certified Nursing Assistants (C.N.A.s), Medical Social Workers, Discharge Planners, Caseworkers.

Ancillary Treatments and Services – prescribed or recommended care/treatments including physical therapy, occupational therapy, speech therapy, hydrotherapy, massage therapy, acupuncture, etc.

Medications - all prescribed and over-the-counter medications taken by an individual.

Nutrition – an individual's pattern(s) of eating, what kinds of foods, basic caloric requirements, evidence of malnutrition/dehydration. Digestion concerns - swallowing, indigestion, heartburn, vomiting, lack of appetite.

Speech Issues – individual is identified as having difficulty with speech or needs related to speech.

Vision Issues – individual is identified as having visual impairments or needs.

Hearing Issues - individual is identified as having hearing impairments or needs.

Assisted Devices and Technologies – an individual uses or needs assisted devices and/or technologies, such as a cane, walker, wheelchair, bath bench, grab bars, raised toilet seat, hospital bed, lift, hearing aids, glasses, magnifiers, etc. Any types of device meant to improve the functioning of an individual.

Psychological and Emotional Components of an Individual - officially diagnosed psychiatric illness and/or indicators of emotional concerns. The history of those psychiatric illnesses, the prognoses of psychiatric illnesses; the need for a suicide assessment and/or geriatric depression evaluation; cognitive/dementia indicators/concerns states; alcohol and drug abuse/concerns; individual strengths.

Psychological History – individual's history of psychiatric disorders/illnesses, including depression, anxiety, bipolar, schizophrenia, personality disorder, etc. History of treatments for psychiatric disorders, including counseling, electro convulsive therapy, inpatient hospitalization, group therapy, massage, meditation, psychotropic medication.

Psychiatric Diagnoses – an individual's current officially diagnosed psychiatric disorders/illnesses.

Psychiatric Prognoses – an individual's expected course of a mental illness/diagnosis - acute, chronic, etc.

Psychiatric Professionals – an individual's psychiatrists, psychologists, social workers, and/or counselors.

Cognitive evaluation - evaluation specifically to discern if a person is oriented to the day, date, year, season; knows what location he or she is at; can remember daily events; has the ability to follow directions; the ability to retain information; identify objects; repeat a phrase. Also, neuro-psychological evaluations.

Dementia Indicators – an individual has the inability to retain or relay information; short term memory loss; long term memory loss; wandering; sundowning (cognitive ability tends to decrease towards the end of the day).

Suicide Screen - evaluation specifically to discern suicidal ideation and plans. Concerns include recent losses, changes and/or crises; lack of interest in life; feeling hopelessness or worthlessness; thoughts of harming self; plan to harm self.

Alcohol and Substance Abuse Screen - exploration of an individual's current and or historical dependence, abuse, chronic use of alcohol, illegal drugs/substances, and/or overuse of prescribed and non-prescribed medications.

Behavioral and Thought Content Concerns - behaviors and/or thoughts that an individual displays/states that are cause for concern and need to be addressed or coped with, including hallucinations, delusions, agitation, outbursts, etc.

Adjustment Issues - indicators that an individual has difficulty coping with or adapting to change.

Social Components of an Individual – an individual's level of education, employment, work history, volunteer and social activities, religion and/or spirituality, hobbies and interests, family and family dynamics (conflictive or supportive), indications of elder abuse, community support services, friendships, and pets.

Education – an individual's level of education, and any diplomas, degrees, and/or certifications.

Employment and Work History – an individual's current or history of paid work.

Family – an individual's immediate or extended blood relatives.

Family Dynamics - how family members communicate and behave together, the roles they play in relation to their family system.

Conflictive – indications that family members seem to display combative behaviors; disagree or argue about courses of action, ideas and/or activities; tend not to be supportive of each other.

Supportive – indications that family members seem to display cooperative behaviors; are open to ideas, beliefs about courses of action, ideas and activities; provide support to each other.

Elder Abuse, Neglect and Exploitation Indicators – defined criteria of elder abuse according to Illinois State Law.

Physical Abuse - A person causing bodily pain or injury to an older adult, age 60 or older.

Sexual Abuse - an individual touching, fondling, or any other sexual activity with an older adult, age 60 or older, when that older adult is unable to understand, unwilling to consent, threatened, or physically forced.

Confinement - an individual restraining or isolating an older adult, age 60 or older, for other than medical reasons.

Emotional Abuse - an individual verbally assaulting, threatening, harassing, and/or intimidating an older adult, age 60 or older, to compel him or her to engage in conduct from which she or he has a right to abstain or to refrain from conduct in which the older person has a right to engage.

Passive Neglect - an individual who fails in their caregiving role to provide an older adult, age 60 and older, with the necessities of life including, but not limited to, food, clothing, shelter, or medical care, because of failure to understand the older person's needs, lack of awareness of services to help meet needs, or lack of capacity to care for the older person.

Willful Deprivation - an individual willfully denying assistance to an older person, age 60 or older, who requires medication, medical care, shelter, food, therapeutic devices, or other physical assistance, thereby exposing that person to the risk of harm.

Financial Exploitation - an individual who misuses or withholds an older adult's, age 60 and older, resources to the disadvantage of the him or her and/or the profit or advantage of another person.

Referred to Adult Protective Services – indications from the law case file that the office/students referred the case for allegations of elder abuse to an appropriate adult protective services agency.

Court Action – indications from the law case file that the office/students filed documents and/or requested court intervention, action or proceedings against an individual thought or known to be participating in some form of elder abuse.

Friendships – identified non-blood individuals a person said to socialize and/or receive support from with via phone, visits, activities, etc.

Religion and Spirituality – an individual's religious affiliation/needs/beliefs. Religion meaning having or showing a reverence for God or a deity; concerned with a specific religion - Christianity, Judaism, Buddhism, Hinduism, Scientology, etc. Spirituality meaning believing in otherworldly ideas, things, immaterial nature, soul, outside the realm of human existence, transitional nature, impacted by life experiences.

Pets – an individual is identified to have pets that he or she cares for, including dogs, cats, fish, birds, snakes, etc.

Community Support Services - an individual has active social service agency involvement, religious institutions programs and/or volunteers, use of lending closets (usually for borrowing donated assistive equipment and acquiring

certain health supplies – latex gloves, incontinence diapers, nutritional supplements) and food pantries, etc.

Hobbies and Activities – things an individual enjoys doing/participating in, including exercise, reading, television, socialization, arts, music, theater, etc.

Volunteer Activities - Non-paid activities an individual does to assist an organization and/or individuals.

Environmental Condition of Individual – the community and neighborhood, and type(s) of housing an individual and/or family live in, including single family home, apartment, senior housing apartment, assisted living facility, nursing home, psychiatric hospital, subsidized housing/Section 8, and/or shelter. Also, the evaluation of the community and housing.

Neighborhood and Community – an individual's neighborhood and/or community, including indications of barriers/risks (crime rate, drug atmosphere, etc.) to and/or supports for that individual (involved neighbors, social agencies, religious organizations, etc).

Psychiatric Hospital – an individual is residing in a hospital for help with mental illness(es).

Nursing Facility – an individual is residing in a skilled nursing facility for 24/7 care where he or she receives medical, nursing and/or ancillary care, as well as meals and planned activities.

Subsidized Housing and Section 8 – an individual is residing in means-tested housing available at a lower rental rate due having low income. Individuals must apply and qualify through their community to obtain benefits. Section 8 is a voucher program, in which the state pays a large portion of the rental amount for a home or apartment leaving a small amount for the individual to pay.

Senior Housing – an individual is residing in an apartment building for older adult individuals, who have low income. Rent amount is usually determined on a sliding scale based on individual's monthly income. Some social activities and/or limited van transportation services may be available, but otherwise residents are independent.

Assisted Living Facility – an individual is residing in a multiple occupancy building, usually for older adults, who require some assistance with activities of daily living, including bathing, housekeeping, laundry, medication management, home health services, etc. Usually up to 3 meals a day are provided by the facility within a communal dining. Regularly scheduled van transportation and social activities/programs are usually available.

Apartment – an individual is residing in an independent apartment within a building. The apartment is rented or owned by individual/family within a building with other apartment units and occupants.

Single Family Home – an individual is residing rented or owned home or townhouse with multiple rooms for living, kitchen, bathroom, etc.

Evaluation of Living Environment - indications in case file that students explored the appropriateness of a living environment for an individual on many levels – cleanliness, accessibility, and barriers; having appropriate working utilities and appliances; indications that modification are needed or have been made for the safety of an individual; evidence of assistive equipment, if needed. Also, if an individual is housed in a nursing or assisted living facility, in addition to cleanliness, evidence of services available, including monitoring, housekeeping, laundry, medical assistance, activities, transportation, etc.

Financial Components of the Individual - an individual's financial means, including work wages, social security, pension, annuity, savings, stocks, bonds, medical insurance, public assistance - food stamps, cash assistance, Medicaid, etc.

Income Sources – an individual's work wages, social security benefits, pension, annuities, stocks, bonds, public assistance benefits - qualified Medicare beneficiary program (covers monthly premiums for Medicare Part B Physicians Visits), food stamps, cash assistance, etc.

Social Security Payments – an individual's monthly federal income payments from his or her work history or parental or spousal benefits, if an individual has limited or no work history.

Pensions – an individual's income from a retirement fund from military and/or work history.

Assets – an individual's income from various investments, savings, properties, etc.

Public Assistance – an individual's means-tested State of Illinois benefits for individuals who have low income based on predetermined guidelines. Benefits can include food stamps, cash assistance and QMB (qualified Medicare beneficiary) coverage for premiums of Medicare Part B, and Medicaid health insurance.

Financial Instability Indicated – an individual shows indications of financial problems, including difficulty paying bills, eviction notices, utilities being shut off, inability to purchase food and medications, etc. due to income problems.

Medical Insurance – an individual's sources of medical care cost coverage, including private insurance plans, Veteran's Administration benefits, Medicare (Federal), and/or Medicaid (State).

Medicare – Federal health insurance for older adults, including parts A (hospital coverage), B (physicians visits), D (medications).

Supplemental or Private Medical Insurance – private medical insurance plan or secondary medical insurance plan to compliment Medicare coverage.

Veterans Administration Medical Benefits – medical insurance and/or care provided through the Veterans Administration from having veteran status from the military either through the individual's, parental, or spousal service history.

Medicaid – State of Illinois medical insurance benefits for individuals below the poverty line.

Activities of Daily Living - things an individual does to manage day to day life and needs, including being alone at home or in community, plan and keep appointments, bathing, dressing, eating/meal preparation, housework, transportation, medication management, money management, using a telephone, etc.

Medication Management - an individual's ability to understand medications being taken and why; knows when and how to take medications, and to take medications as directed.

Plan and Keep Appointments – an individual's abilities to make and attend scheduled appointments.

Be Alone – an individual's ability to stay alone for an extended period of time in the home or in the community without needing help or supervision.

Transportation - an individual's ability to drive; use public transportation options – taxi, bus, train; seek assistance with transportation - friends/family/volunteers.

Housework - an individual's ability to care for, clean, and maintain home, including vacuuming, sweeping, cleaning bathroom(s), dusting, washing dishes, yard work, shopping etc.

Laundry - an individual's ability to wash and dry clothes properly and regularly.

Telephoning - an individual's ability to locate phone numbers, dial numbers, speak on the phone, call 911.

Money Management - an individual's ability to change money, pay bills, pay for needs, to reconcile banking accounts, etc.

Continence - an individual's ability to toilet him or her self; hold bladder and bowel functions.

Mobility and Transfer - an individual's ability to ambulate, negotiate steps, move from standing to sitting and sitting to standing, etc., as well as history of falling.

Grooming - an individual's ability to maintain skin and nails, comb and brush hair, brush teeth, shave, etc.

Dressing - an individual's ability to put on and take off clothing, and to wear seasonally appropriate clothing.

Bathing - an individual's ability to get into and out of a shower and/or bathtub; ability appropriately cleanse body and hair.

Eating and Meal Preparation – an individual's ability to get food, prepare food, and eat.

Level of ability to complete Activities of Daily Living (ADLs) – level refers to an individual's ability to be totally independent or requiring minimal assistance, moderate assistance or full assistance with some or all ADLs.

Plan of Care for Respondent/Ward - arrangement and combination of services, resources, supports deemed appropriate by a professional, individual, and/or family to provide care for an older adult and assist the caregiver with role.

Emergency Hospitalization – an individual requires immediate medical attention.

Additional Guardianship Assistance – an individual, already under a limited guardianship, may require plenary adjudication to obtain appropriate care and support.

Housing for Individuals with Disabilities - an individual will or may live in an apartment or house with other individuals with similar disability; receive supervision and services.

Senior Housing – an individual will or may live in a senior building, which is subsidized by the state.

Assisted Living Facility – an individual will or may live in an apartment within a facility that offers meals, cleaning, laundry, medical/home health services - medication management, nurses, Certified Nursing Assistants, bathing help, etc.

In-Home – an individual will or may live in his or her home or apartment and receive care.

Psychiatric Hospitalization – an individual will or may enter a psychiatric hospital as a permanent or temporary resident for the care of mental illness.

Nursing Home Placement – an individual is believed to require 24/7 skilled care due to health and/or mental health needs.

Crisis Intervention and Mediation – evidence that assistance was provided to respondent/ward, potential guardian/guardian, and/or caregiver to help cope or manage a person-specific situation - family issues/conflict; loss of abilities/function; loss of income; loss of family/friends; acute medical or mental health problems; loss of pet(s); loss housing; loss of resources; inability to cope, adjustment issues.

Psychoeducation - professional with specific knowledge educates individuals about health status and changes/needs, mental health status and changes/needs.

Respite - services either formal or informal to provide a caregiver with time away from caregiving role.

Social Services - case management and service linkage: equipment lending closets, food pantries, home delivered meals, transportation services for individuals with special needs, taxi cab programs, free bus, etc.

Mental Health/Support Providers – an individual is recommended or is actively seeking counseling, psychiatric, and/or social work services, including individual, group therapies and supportive associations (Alcoholics Anonymous).

Home Health Care – In-home medical, hospice, and/or supportive services either through private care providers/agencies and/or State of Illinois programs.

Private Care or Agency – an individual and/or family is paying for a private health provider or agency to care for the needs of the older adult.

IL State In-Home Care Programs – State subsidized cleaning and care programs, including Community Care Program, which provides older adults with up to 30 hours a week of in home care services depending on level of care needs and financial restrictions.

Financial Resources – an individual's or family's income, savings, assets, Public Assistance benefits, and/or grants, etc. to establish a plan of care for the respondent/ward.

Respondent Assistance and Feedback about Plan of Care – there was case file evidence that the respondent or ward gave feedback or ideas about a plan of care.

Medical Professionals Feedback about Plan of Care – there was case file evidence that medical professionals involved with respondent or ward gave feedback or advice about a plan of care.

Interviews

Social Worker in Geriatrics - an Illinois licensed social worker, whose primary clinical focus, for at least 2 years, is older adults and their families.

Social Worker Years of Practice – the stated number of years of practice a social worker has been practicing social work.

Elder Law Attorney - An attorney, who has passed the Illinois Bar Exam, practices in Cook County, and has at least 2 years working knowledge of older adult guardianship processes and cases.

Elder Law Attorney Years of Practice – the stated number of years of practice an elder law attorney has been practicing law.

Guardianship Reform – statements by social workers and attorneys that indicate the Cook County (Chicago, Illinois) Probate Court Guardianship System needs to be modified, specifically for older adult guardianship cases.

Expedite Guardianship Process – expressed beliefs and opinions that the guardianship processes should be quicker.

Revision of the Illinois Probate Act – expressed beliefs and opinions that the Illinois Probate Act requires updating and reform.

Uniform Court Guidelines for Guardianship – expressed beliefs and opinions that Probate Court guidelines and practices should be the same among judges.

Access to Legal Representation – expressed beliefs and opinions that parties involved in guardianship cases should have the ability to retain an attorney regardless of income.

Guardian ad litem (GAL) Guidelines for Investigation of Guardianship – stated opinions/thoughts that GALs should have a standard format and areas of exploration for assessment of respondents, etc.

Automated Court Documents – stated opinions/thoughts that Probate Court should have online court documents for easier access and understanding of content/directions from the court.

Uncomplicated Guardianship Process – stated opinions/thoughts that guardianship law and court procedures should be easier to understand and less complicated for all parties.

Expense – stated opinions/thoughts that guardianship and court procedures should be less costly to parties involved in guardianship.

More Time and Investigation – stated opinions/thoughts that Guardian ad litem (GAL) should have more time and in-depth investigation of guardianship to ensure the most appropriate outcome.

Funding and Staff Availability – statements indicating the guardianship system requires better financial support and staffing

More Time and Investigation for Assessment – statements indicating that Guardian ad litem (GAL) should have more time and in-depth investigation of guardianship to ensure the most appropriate outcome.

Education of Guardian about Role – statements indicating the guardianship system needs to provide more training/education for potential guardians about their roles.

Assessment of Intended Guardian – statements indicating the guardianship system should complete assessments of the individuals wishing to be guardians.

Monitoring – statements indicating that the guardianship system and procedures should have more regulations and oversight.

Tailored Guardianships – statements indicating that the guardianship system should create guardianships to fit the specific needs of the individual.

Opinion about Use of Comprehensive Social Work Assessments for Older Adult

Guardianship Cases – social worker and attorneys opinions/thoughts about the use of comprehensive, biopsychosocial social work assessments for older adult guardianship cases.

Training to Create Care Plans for Older Adults and or Their Families - the education and skill development social workers and attorneys have to create plans of care with older adults and/or their families, etc.

Types of Tools and Procedures Used to Assess Respondents/Clients - the ways, procedures, tools, examinations used by social workers and attorneys to assess older adults and/or their families, etc.

Social Workers Knowledge of the Guardianship System – social workers ideas, understanding, and beliefs about the guardianship system in Cook County.

Social Workers Knowledge of Family in Older Adult Cases - a social worker's awareness of family issues, dynamics, behaviors, etc. while working with older adults.

Concern or Issues that Arise with Families – stated opinions, thoughts, and experiences reported by social workers about concerns or issues that typically arise with families and older adults.

Family Dynamics Issues – social workers expressed concerns and thoughts about family communication, behaviors, roles, conflict, struggle, and cooperation.

Elder Abuse, Neglect and Exploitation – social workers expressed concerns and experience with abuse, neglect and exploitation among families and older adults.

Role of Social Work with Older Adults – social workers expressed opinions, ideas, beliefs, feelings, etc. about the duty/responsibility of social work in working with older people.

Opinions of Social Workers Abilities to Act as Guardian ad litem (GAL) in Older Adult Guardianship Cases – social workers and attorneys expressed beliefs, feelings, ideas, etc. about the potential of geriatric social workers serving in the role of GAL for older adult guardianship cases.

Therapeutic Jurisprudence for Respondent – social workers' and attorneys' opinions, beliefs, feelings, and judgments about ensuring that older adults, who are being sought guardians, are able to attend their hearings and express their thoughts about their needs.

Quality of CCP 211 Physician's Report for Guardianship of an Adult - social workers' and attorneys' opinions, beliefs, feelings, and judgments about the CCP 211 Physician's Report and its utility in adult guardianship cases.

Willingness to have an Interdisciplinary Guardian ad litem (GAL) Partnership with an Attorney for Older Adult Guardianship Cases – social workers' and attorneys' opinions, beliefs, feelings, and judgments about social workers partnering in the guardian ad litem (GAL) role with attorneys to assess and assist older adults and/or their families.

Knowledge of and Referral to Supports and Resources – social workers’ and attorneys’ knowledge of available community resources, services, programs, etc. to assist older adults and/or their families.

Training and Education to Complete a Comprehensive Assessment - the knowledge that social workers and attorneys have obtained through school and/or work experience to biopsychosocially assess older adults and/or their families.

Plenary vs. Limited Guardianships of Older Adults Brought Forth - elder law attorneys approximation of the number of plenary (full) older adult guardianship case that are brought forth in Cook County vs. limited guardianship cases.

Elder Law Attorneys Understanding of the Role of Social Work - the ways elder law attorneys understand the role and function of social workers in assisting people.

Training and Education of Family Guardians – opinions, thoughts, and concerns about how potential family guardians are educated and/or trained to serve in the role of guardian.

Concerns with Family Guardians - expressed concerns, opinions, feelings about family members who have been named guardian over an older adult.

Family Dynamics Issues – expressed issues and behaviors that arise between family members that may prompt seeking guardianship.

Lack of Involvement with Respondent or Ward – stated opinions by attorneys

that potential guardians/guardians are not knowledgeable about the respondents/wards conditions and/or not aware/involved with the respondents/wards daily needs/activities.

Failure to Follow Court Procedures – stated opinions/thoughts by attorneys that indicate guardians do not understand the rules and regulations set forth by Probate Court regarding their roles as guardians and/or chose not to execute their roles according to those rules and regulations.

Lack of Knowledge about Guardianship – stated opinions/thoughts by attorneys that indicate guardians do not understand their roles as guardian and/or the powers that they hold.

Elder Abuse, Neglect and Exploitation – stated concerns about guardians abusing, neglecting, and/or financially exploiting wards.

Percentage of Older Adult Respondents who Attend Their Guardianship Hearings – attorneys' approximation of the percentage of older adults, who attend their guardianship hearings in Cook County Probate Court.

Therapeutic Jurisprudence for Respondents – statements by attorneys that indicate that older adult respondents attend their hearings and express their opinions about adjudication as a disabled person.

Attorney Years of Law Practice - the number of years attorneys have been practicing in elder law.

APPENDIX H:
COMPLETE RESEARCH RESULTS

Complete Research Results

Question: Did the case involve a social work and a law student team or law student(s) only?

[<Internals\CASE A Law Only>](#)

One law student

[<Internals\CASE B Law Only>](#)

Two law students.

[<Internals\CASE D Law Only>](#)

Three law students.

[<Internals\CASE E Law and SW Team>](#)

One social work student and one law student.

[<Internals\CASE F Law and SW Team>](#)

One social work student and one law student.

[<Internals\CASE G Law and SW Team>](#)

Two social work students and three law students.

[<Internals\CASE H Law and SW Team>](#)

Two social work students and three law students.

Question: What was the level of student work product for each case - (length of case/clinic involvement, exploration of health records, education of parties about guardianship, assessment plans, supports/resources provided to parties, the number and length of Guardian ad litem reports, types of communication, in-person interviews, any research completed)?

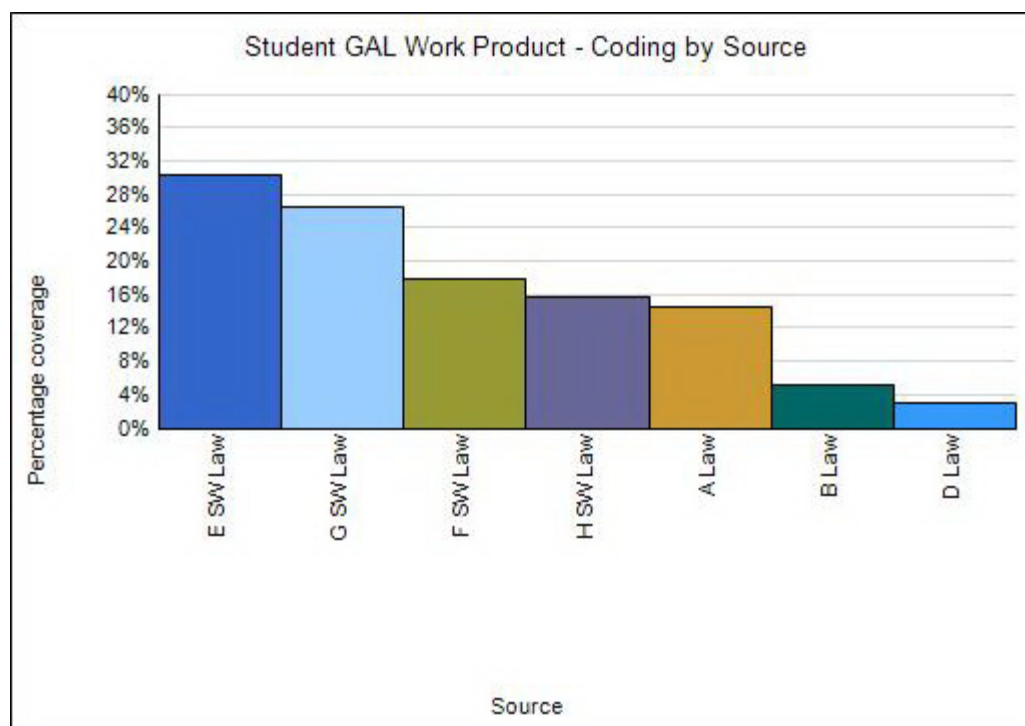
TABLE SIXTEEN. Student GAL Work Product Chart

Table Sixteen displays percentage of code coverage for student GAL work product during case involvement. All SW/Law cases show a higher coverage of work product elements. SW/Law Cases showed a combination comprehensive assessment plans including:

- GAL checklists, assessment of location checklists, individual interview plans for the respondents, petitioners/guardians and family members, assessments for homes and facilities, care planning, and interviews with nursing home staff and physicians.
- Law Cases either had limited assessment plans or no plans at all.

[<Internals\CASE A Law Only>](#)

2 weeks.

The GAL Report was 4 pages in length.

Interview Plan with Daughter/intended guardian

Explain purpose of GAL role - gather information for the court about father's situation - what is best for him.

What do you think your father needs a guardian appointed?

What kind of mental deterioration or physical incapacity inhibit your father from caring for himself?

What types of things can your father still do on his own?

What types of things can he no longer do on his own?

Can your father keep track of his money?

Why do you believe you are the best person to be appointed your father's guardian?

How often do you visit your father in the nursing facility?

Do you have a criminal background; Have you been adjudicated disabled by a court;

What is your regular schedule like? Do you work?

In-person interviews: respondent: 1; potential guardian and her spouse: 1; nurse at nursing home: 1

Phone calls: Two siblings of potential Guardian: 1 each (2 total); 1 with potential homemaker.

Letter to guardian.

[<Internals\CASE B Law Only>](#)

2 weeks.

GAL report was 9 pages in length.

In-person interviews: respondent: 1; potential guardian: 1; nurse at the V.A. hospital: 1;

Phone call: sister: 1.

Letter to V.A.

[<Internals\CASE D Law Only>](#)

5 months.

GAL Report was 17 pages in length, GAL Supplemental Report was 10 pages in length.

In-person interviews: respondent: 4; sister (original intended guardian): 1;

Phone calls: potential guardian - Office of the State Guardian (OSG): 3; sister (original intended guardian: 1; daughter (agreed to be guardian in place of OSG): 6 phone calls

[<Internals\CASE E Law and SW Team>](#)

1 month, 4 days.

One GAL Report was 13 pages in length.

GAL Assessment checklist (Completed by Law Student),

Assessment of Location Checklist (Completed by SW Student)

Guardianship education was attempted with respondent, but she had no response;

however she appeared to try to process information. Team explained that they are not her attorney, but investigating on behalf of the court to explore if guardianship is necessary and how she feels about it. It was discussed that all of the information will be shared with the court at a hearing. They explained the hearing process and read rights.

Explained that respondent would need to be excused from attending guardianship hearing if she is not able to go. They explained what plenary guardianship (person and estate) means – losing all rights.

It appeared that the students provided a good explanation of the GAL role – exploration of guardianship, family contact, an independent party for the court – not your attorney –

to the family and respondent. Guardianship was explained to the petitioner/intended guardian - legal role, duties.

The student team forced the doctor to clarify their recommendations about an appropriate care plan for the respondent because of conflicting information, which was creating frustration and upset with the family. The student team explored the opinions of the nursing home staff, family and doctors and recommended that the best care plan was for the respondent to be placed in the care of petitioner/guardian at home.

The student team challenged the physicians conflicting opinions about permanent nursing home placement and with exploration found that the intended guardian could provide appropriate care to her mother in a preferable home setting.

Interview Plan with Respondent

What is a typical day like for respondent at daughter's home and at nursing home? Does she feel lonely at daughter's home while daughter is working? Does she want to live with her daughter? Does daughter visit her now in the nursing home? What is her opinion of her daughter? Is respondent aware of her own needs? Does she display cognitive deficits? Who manages her money now? How does she pay for things/bills? Does she own a home? Does she have assets? Can she attend court/hearing? Does she want to attend the hearing?

Interview with Nurse and Staff at Nursing Home

What are the respondent's diagnoses? What is her history of illnesses? Will her condition worsen – will she continue to decline? What medications does respondent take? Does she believe daughter will provide the same level of care in her home? Do

you think the respondent should move back home? Why/not? Does patient interact with other residents, participate in activities, what's a typical day like?

Interview Plan with Physicians

What are the respondent's diagnoses? What medications does she take? What is her prognosis? What would be the best care plan for respondent? Should she remain in the nursing home? Can she return home with her daughter? Is her daughter capable of handling respondent's needs? What are her care needs? Does petitioner require assistance with caring for respondent?

Petitioner Interview Plan

Tell us about the respondent? What are her specific needs/disabilities? What might you expect it to be like to care for her? Do you think her needs will change? What is your intended care plan to meet her needs? Why are you seeking guardianship? Have you considered alternative methods of care? Taking care of another family member is a tough job, it's important that your own needs are met as well, otherwise, it is difficult to be the best care provider. How do you plan to care for yourself? Have you explored options for time when you need a break from caregiving? (Respite, home health care); Are you familiar with resources to assist you in providing care for your mom? Whom can you ask when you have questions about care? What ADLs will the potential guardian be taking care of?

GAL Responsibilities List: (created by team) inform respondent of her rights (in person), make sure respondent is currently receiving appropriate care, speak to as many people as possible associated with the respondent to determine the following: appropriate/necessary resources; evidence/presence of elder abuse or neglect; assure that respondent will be safe

and cared for; corroborate reports of respondent's mental capacities (whether she appears to be incapacitated to make own decisions); try to determine what the respondent would have wanted regarding decisions/care - previously expressed preferences, philosophies, religious, moral, and ethical beliefs/values; Determine appropriateness of guardian - can she provide support, care, comfort, health, education and maintenance, professional services, if necessary.

What are respondent's sources of income, assets, etc. What plan does guardian have for these?

Why does she want mom home? Lived with her before? What do doctors think of move from nursing home? What's her relationship like with mom? How often does she visit her mom? Do you make arrangements for care now? Do you manage finances? What medications does mom take? Do you believe you are capable of caring for your mom?

Plan of Care – assistance, researching caretakers, is house equipped to meet needs, are repairs needed, long-term plans, will mom continue to decline, how will she handle changes/needs, does she work, what will mom do all day, is employment close to home, is she married, do you have other family/siblings, are they concerned about mom, do you have family support with moving mom to your home, health condition, how much does mom receive in income, assets, investments, home ownership, how do you plan on paying for care/medications, etc?

Evaluate home via checklist - cleanliness, condition, accessible, will respondent be left alone, emergency plan.

Nursing home evaluation via checklist - cleanliness, is respondent appropriately cared for; staff recommendations, doctors recommendations, medications taken and why, medical chart exploration, what ADLs does respondent complete now?

Interview with son

Does he know about guardianship proceedings, feelings about it, does he believe sister can properly care for mom?

In-person interview: respondent: 1; potential guardian: 1; nursing home staff: 3

Phone call – intended guardian: 2; respondent's son: 1; nursing home nurse: 1; petitioner/potential guardian's attorney: 1; 1 with each physician: 3.

[<Internals\CASE F Law and SW Team>](#)

2 ½ months.

First GAL report was 10 pages in length; Supplemental GAL Report was 9 pages in length.

Social work student obtained internet data obtained from the Medicare website detailing the most recent inspection of the nursing home where respondent resided, including a State of Illinois Inspection Report and Official Rating of the nursing facility.

The team reviewed respondent's medical chart at nursing home, and obtained a list of his medications and the reasons for being taken.

Team noted that guardianship was explained to family and respondent.

Students provided intended guardian with resources - Community Care, Respite, Private Care options.

Student typed up a detailed inventory of respondent's visitors from nursing home visitors log in effort to determine who and how often he had visitors.

Review of facility plan – facility staff, facility/room appearance, appearance of respondent.

Case Investigation Plan: outlined GAL responsibilities and things to remember to do – read respondent his rights and provide written documentation, verify appropriate care/safety now, determine appropriate resources, any possibility of elder abuse, corroborate CCP 211 and make sure it is accurate, determine what the respondent wants and prefers – person philosophies, religious, moral, and ethical beliefs, values. Determine appropriate guardian – will she provide support, care, comfort, health care, education, maintenance, professional services. What is their income? What are their assets?

Explore guardian's care plan – skilled nursing care is preferred by professionals, but petitioner is confident she can provide home care. Explore resources i.e. adult day care, 3-4 hours at night, bathing assistance, homemaker through IDOA/Community Care Program, Respite Services, Social Service Agencies, Alzheimer's Association, etc.

Interview Plan with Physicians

What are the respondent's diagnoses? What medications does he take? What is his prognosis? What would be the best care plan for respondent? Should he remain in the nursing home? Can he return home with spouse? Is wife capable of handling respondent's needs? What are his care needs? Does spouse require assistance with caring for respondent?

Petitioner Interview Plan

Tell us about the respondent? What are his specific needs/disabilities? What might you expect it to be like to care for him? Do you think his needs will change? What is your

intended care plan to meet his needs? Why are you seeking guardianship? Have you considered alternative methods of care? Taking care of another family member is a tough job, it's important that your own needs are met as well, otherwise, it is difficult to be the best care provider. How do you plan to care for yourself? Have you explored options for time when you need a break from caregiving? (Respite, home health care); Are you familiar with resources to assist you in providing care for your husband? Whom can you ask when you have questions about care? What ADLs will the potential guardian be taking care of?

GAL Responsibilities List: created by students - inform respondent of his rights (in person), make sure respondent is currently receiving appropriate care, speak to as many people as possible associated with the respondent to determine the following: appropriate/necessary resources; evidence/presence of elder abuse or neglect; assure that respondent will be safe and cared for; corroborate reports of respondent's mental capacities (whether he appears to be incapacitated to make own decisions); try to determine what the respondent would have wanted regarding decisions/care - previously expressed preferences, philosophies, religious, moral, and ethical beliefs/values; Determine appropriateness of guardian - can she provide support, care, comfort, education, activities, and health maintenance, professional services, if necessary. What are respondent's sources of income, assets, etc. What plan does guardian have for these?

What do doctors think of move from nursing home? What's her relationship like with her husband? How often does she visit husband? What kind of relationships does the respondent have with family? Church? Do you make arrangements for care now? Do

you manage finances? What medications does he take? Do you believe you are capable of caring for your husband?

Plan of Care – assistance, researching caretakers, is house equipped to meet needs, are repairs needed, long-term plans, will respondent continue to decline, how will she handle changes/needs, does she have other care obligations - children/other family, are they concerned about your husband, do you have family support with moving husband back home, how much does husband/you receive in income, assets, investments, home ownership, how do you plan on paying for care/medications, etc?

Evaluate home via checklist - cleanliness, condition, accessible, will respondent be left alone, emergency plan.

Nursing home evaluation via checklist - cleanliness, is respondent appropriately cared for; staff recommendations, doctors recommendations, medications taken and why, medical chart exploration, what ADLs does respondent complete now?

In-person interviews: respondent: 2; potential guardian: 2; nursing home staff: 3

Phone calls: potential guardian (wife): 1; pastor: 1, biological children: 1; physician: 1; nurses at nursing home: 1; director of nursing home: 1

[<Internals\CASE G Law and SW Team>](#)

1 year, 1 month, and 10 days.

First GAL report was 12 pages in length; 1st Supplemental GAL Reports was 10 pages in length; 2nd Supplemental GAL Report was 8 pages in length; 3rd Supplemental GAL Report was 8 pages in length.

Team obtained sign language interpreter for ward through Anxiter Center Chicago Area Interpreter Referral Services, in effort to effectively communicate with him.

Student team explored various options for ward including: decrease in monthly VA benefits allotment to conserve money longer; ideas for trust should he come into money from property sale; housing options - low income senior housing, assisted living, Access Living; Office of Public Guardian (if assets over \$25,000) or Office of the State Guardian (less than \$25,000 in assets), if ward determined to need plenary (person and estate) guardianship, TDD/TTY and other assistive equipment through the state; home health through state, CHAMPVA (comprehensive health care program – VA only), Medicare and Public Assistance/Medicaid programs. Explore creation of a Will. Referral to CDEL for estate planning.

Obtained information from Anxiter, documents from bank – fees for service, accountings from bank and attorney, birth certificate, ward's Will (leaving everything to sister), VA health insurance information, and Medicare Programs information.

Referrals given about social service agencies, and outlined possible living options for the ward.

Team explored options and ideas for different trusts for the ward – pool trust; special needs trust – should he come into money from home sale.

Social Work Assessment Plan

Name of ward/respondent:

Address:

Age:

Date of Birth:

Marital Status:

Education

English is primary language?

Place of Birth:

Work Experience:

Religion/spirituality:

Primary Care:

Hospital Affiliation:

Diagnoses:

Medications:

Health Insurance Coverage:

Advanced Directives i.e. Living Will, DNR?

Activities of Daily Living

Plan Appts:

Be Alone:

Eating/M meal Preparation:

Bathing:

Dressing:

Grooming:

Transferring/Mobility:

Continence:

Money Management:

Telephoning:

Laundry/Housework:

Transportation:

Medication Management: NA - no medications taken.

Health Checklist

Medical HX and Current Issues

Arthritis

Blood Disorder

Bowel Problems

Cancer

Vertigo

Alzheimer's/Memory

Heart Disease

Hepatitis

Hypertension

Infectious Disease

Kidney/Bladder

Mental Illness

Osteoporosis

Paralysis

Prostate Problems (male)

Respiratory Problems

Seizure Disorder

Parkinson's

Skin Disorder

Stroke

Thyroid Disorder

Tuberculosis

Hearing = Deaf

Eye/Vision Problems = reportedly vision has declined making it difficult to lip read

Allergies (seasonal, food, meds)

Asthma

How many times have you:

Hospitalized

Placed in a NH

To ER

To other health/mental health professional

Fallen

Other

Surgical HX: What type? When? Results?

Speech Issues:

Vision Issues:

Corrective Lens for vision?

Medication List:

Do you have any of the following services at home? Agency? How often?

Home Health RN

Home Health Aide

Physical Therapy

Occupational Therapy

Respiratory Therapy

Hospice

Home Delivered Meals

Respite

Community Care Program

Private Pay Assistance

Other Services

Nutrition Screen:

Substance Abuse Screen:

Do you currently use drugs?

Have you ever used drugs?

Have you ever received treatment for alcohol or drug use?

Psychosocial Assessment

What activities does the ward enjoy?

Emotional/Mental Health Assessment:

Geriatric Depression Evaluation:

Suicide Assessment:

Dementia Indicators:

Tendency to wander

Inability to be alone

Repetitive actions

Rummaging

Hoarding

Hiding/losing items

Suspiciousness

Sundowning

Incontinence

Agitation/Restlessness

Sleeping disturbances

Inappropriate sexual behavior

Caregiver Information:

Age of caregiver?

Relationship to ward?

Physical Health of caregiver?

Number of days/hours a week caregiving?

Employment/Volunteer?

Dependent Children?

How does caregiver view demands?

Has the ward displayed disruptive behavior?

Can caregiver physically and emotionally handle client's needs?

Caregiver appearance:

Does caregiver participate in a support group?

Home Evaluation:

Appearance of home?

What room does client sit in most often?

Fire Prevention (smoke detectors, fire extinguishers, plan of evacuation)

Is client capable of exiting independently from home in an emergency?

Is client capable of dialing 911 =

Rugs, electrical cords exposed? =

Home recommendations?

Emergency Contacts?

In-person interviews: ward: 5; ward's mother: 1; ward's sister: 5

Phone calls: VA Field Examiner: 1; attorney representing guardian of estate: 1; Center for Disabilities and Elder Law (CDEL) attorney: 1; pastor: 1

Letters: V.A. hospital; to ward/family; to guardian (attorney).

Emails - CDEL attorney: 1; Chicago Hearing Society: 1.

[<Internals\CASE H Law and SW Team>](#)

1 year, 10 months.

First clinic GAL report (Supplemental) was 10 pages in length; 2nd Supplemental GAL report was 7 pages in length.

Respondent/ward's medical file was in the file – approximately 100 pages, including Inpatient records, progress notes, and prescriptions. Also obtained complete medical record of treatment by home physicians agency.

Team obtained respondent's/ward's complete prescription profile from pharmacies.

Listed all prescription medications, as well as reported illicit drugs used by the respondent.

Team obtained and worked with a geri-psychiatric doctor to evaluate respondent independently in her home.

Team explained process for mental health involuntary commitment to guardian and the reasons why to do so, and the option of having the state's attorney file petition with mental health court (provided number). GAL explained an "out" option to guardian, if she no longer wants or can serve as guardian - could refer case to Office of the State Guardian (if no other family is willing to take on role).

Daughter seemed unaware of her authority as guardian. She did not know respondent's current physicians, medications, diagnoses. The team used this as an opportunity to educate her about role. They explained that everything she does for self she can do for mom/ward. They "coached" her on ways to obtain information. The team discussed that the guardian should go to all pharmacies near mom's/ward's home and obtain a print-out of all medications - it is likely that ward is going to different pharmacies to fill prescriptions if she is refused at one. They advised her to get lists and then call all doctors who prescribe, get information about diagnoses, and talk with them about drug concerns/abuse.

Interview plan included: how does respondent's symptoms affect her ability to care for herself, is she a danger to herself or others, can she protect herself in an emergency, history of drug and alcohol abuse – does it impact symptoms, what are her medications, is there a medical/organic explanation of behavior, what are her medical diagnoses, history of mental health diagnoses, how does respondent feel about guardianship, read legal rights about guardianship, can she schedule and keep medical appointments or other appointments, what are her finances like, has mental illness affected ability to manage

money, is her home environment safe – is she able to maintain it, are there barriers to care, what is her marriage status – is there an order of protection in place, what is the petitioner/intended guardian's plan of care, does she understand her role as guardian, are there concerns she has about serving in role, what other obligations does she have - work, family, etc., obtain medical and pharmacy records, obtain contact information for physicians/hospitals, home physicians, obtain physician's report (possible that doctor will go with GAL team), schedule time to talk with son (use of supports), suggest full-medical work-up, neurological evaluation to rule out organic causes for respondent's behavior. Obtain financial information – landlord, bank, utility. Continue gathering information from petitioner and other family.

In-person interview: with petitioner/guardian: 3; geri-psychiatric physician (retained by GAL), respondent and spouse: 2; respondent at legal clinic: 1

Phone Calls: with guardian: 5; respondent: 1; respondent's landlord: 1

Letter to guardian from team providing support groups: Al-Anon, National Alliance for Mental Illness, Illinois Department of Mental Health Centers, counseling options– public and private centers, reporting physician for malpractice (Illinois State Medical Society, Illinois Department of Finances and Professional Regulations)

Letter from GAL to guardian regarding missing a court hearing; information about mental health involuntary commitment procedures, and asking if she wants to remain as her mother's Guardian.

Email from GAL to intended guardian informing of directions to office.

Email to guardian with respondent's physicians contact information.

Email to guardian with substance abuse referrals for respondent.

Email from guardian to GAL regarding calling the physician.

Email from GAL to guardian regarding referrals for help and next hearing.

Note to GAL from apartment manager expressing concern for respondent.

What kind of exploration and information was provided into legal documents and procedures for the Well Being of the Respondent, including mental health court, trusts, estate planning, Will, Surrogate Health Care Act, Representative Payee, Do Not Resuscitate Order (DNR), Living Will, Power of Attorney – Health Care, Power of Attorney – Estate?

[<Internals\CASE F Law and SW Team>](#)

Wife is Rep Payee.

physicians were not recognizing the Surrogate Health Act and would not share information about her husband.

[<Internals\CASE G Law and SW Team>](#)

It was discussed that ward's sister could take over as Rep Payee and/or guardian of estate (instead of the bank) for her brother, but she declined.

Sister did not want to be brother's guardian of person or POA for health care or rep payee.

Ideas for different trusts for ward – pool trust; special needs trust – should he come into money from home sale.

Estate planning - creation of wills (sister and ward)

[<Internals\CASE H Law and SW Team>](#)

GAL explained process for mental health involuntary commitment to guardian and the reasons why to do so, and the option of having the state's attorney file petition with mental health court (provided number).

recommendation that guardian become rep-payee for ward's Social Security checks instead of guardian of estate too, which may have been easier for her to handle.

Question: What types of guardianship cases were found - limited or plenary guardianship?

[<Internals\CASE A Law Only>](#)

Plenary Guardianship - person and estate.

[<Internals\CASE B Law Only>](#)

Plenary Guardianship – person and estate.

[<Internals\CASE D Law Only>](#)

Guardianship of the Person.

[<Internals\CASE E Law and SW Team>](#)

Plenary Guardianship – person and estate.

[<Internals\CASE F Law and SW Team>](#)

Guardianship of the Person.

[<Internals\CASE G Law and SW Team>](#)

Clinic GAL assigned to investigate and assist in planning of future needs of current ward under guardianship of estate (limited), such as exploring housing, finances, social services, and possible guardianship of person (then would be a plenary guardianship).

[<Internals\CASE H Law and SW Team>](#)

Plenary Guardianship - person and estate.

Question: Who were the identified parties involved in the guardianship case – petitioner, intended guardian or guardian, respondent or ward, and what were the relationships among them?

[<Internals\CASE A Law Only>](#)

The petitioner was the daughter of the respondent.

The daughter who petitioned intended on being guardian.

The respondent was the father of petitioner/intended guardian.

Physician from the nursing home completed CCP 211 – Physicians Report.

Nurses at nursing home.

Attorney represented daughter in case.

[<Internals\CASE B Law Only>](#)

The petitioner was the brother of respondent.

The intended guardian was the brother of respondent.

The respondent was the brother of the petitioner/intended guardian.

VA social worker, nurse, and physician – psychiatrist from the V.A. completed.

[<Internals\CASE D Law Only>](#)

Sister of respondent was originally the petitioner.

Sister of respondent was original intended guardian.

Law clinic suggested Office of the State Guardian, because of indications of elder abuse by petitioner/intended guardian.

Respondent's daughter indicated that she expressed an interest in being her father's guardian.

The respondent was the brother of the original petitioner/intended guardian, but was put

under non-family guardianship through the Office of the State Guardian.

[<Internals\CASE E Law and SW Team>](#)

The petitioner was the respondent's daughter.

The intended guardian was the respondent's daughter.

The respondent was the mother of the intended guardian/petitioner.

3 Physicians (1 Psychiatrist) responsible for respondent's care

Nursing home staff/nurses, petitioner/intended guardian had a

Private attorney of the intended guardian.

[<Internals\CASE F Law and SW Team>](#)

The petitioner was the wife of the respondent.

The intended guardian was the wife of the respondent.

The respondent was the husband of the intended guardian.

Petitioner/intended guardian had a pro bono attorney

Nursing home physician; nurses; director of Alzheimer's secured floor.

[<Internals\CASE G Law and SW Team>](#)

Ward of the state (limited guardianship of the estate)

Private bank was guardian, which was represented by an attorney.

Ward's sister (limited caregiving role for ward); ward's mother.

V.A. field examiner

[<Internals\CASE H Law and SW Team>](#)

Petitioner was the daughter of the respondent.

Intended guardian was the daughter of the respondent

Respondent/ward was the mother of the intended guardian/guardian

Attorney representing respondent.

Geriatric psychiatric physician.

Respondent's physicians

What types of demographic information was provided about the respondent and potential guardian, including gender, age, date of birth, address, marital status, culture, ethnicity, and/or race?

[<Internals\CASE A Law Only>](#)

Respondent was 84 year old (date of birth given in file), married, male.

Address and phone of nursing facility was located in the case file

Intended guardian was the daughter (female) of the respondent; she is married and has one son, who lives at home.

Intended guardian was 61 years old.

Intended guardian's address was listed in file.

[<Internals\CASE B Law Only>](#)

Respondent was 60 year old (date of birth given in file), single, male. Respondent was living in an identified Veteran's Administration Center in the Psychiatric Ward.

Petitioner/intended guardian was 54 year old, married, brother (male) of respondent.

[<Internals\CASE D Law Only>](#)

Respondent was 65 year old (date of birth given in file), single, male. Respondent living in a nursing facility – address noted in case file.

Original intended guardian was respondent's, married, sister (female). Her address was noted in file.

Considered guardian was daughter (female) of respondent.

[<Internals\CASE E Law and SW Team>](#)

The respondent was 84 year old (date of birth given in file), widowed, female.

The respondent is currently residing in a nursing home (address specified in file).

The intended guardian was the respondent's female, daughter (also petitioner), who was 64 years old and single. Intended guardian's address was listed in file.

[<Internals\CASE F Law and SW Team>](#)

The respondent was a 78 year old (date of birth given in file), married, male, who was residing in a nursing facility (address in file).

His wife (female), age 70, petitioned to be his guardian.

[<Internals\CASE G Law and SW Team>](#)

The ward was a 75 year old (date of birth given in file), deaf, male. He was single, never married, living with disabled mother, sister and nephew in mother's home (address listed in file).

The ward's sister (limited caregiver) was 78 years old.

[<Internals\CASE H Law and SW Team>](#)

The respondent was a 60 year old (date of birth given in file), married, female.

The respondent lived in a Section-8, garden-style 2-bedroom apartment (address listed in file).

Respondent was deeply involved in the drug abuse subculture.

41 year old, daughter (female) petitioned to become guardian.

Question: What kind of information was provided about the medical issues/background/concerns of the respondent and/or guardian, including illness and surgical history, diagnoses, prognoses, hospitalizations/emergency room visits,

primary hospital, physicians, other medical personnel, ancillary treatments/services, medications, nutrition, speech and/or vision issues, and need/use of assistive devices/technologies?

TABLE SEVENTEEN. Biological Components Chart

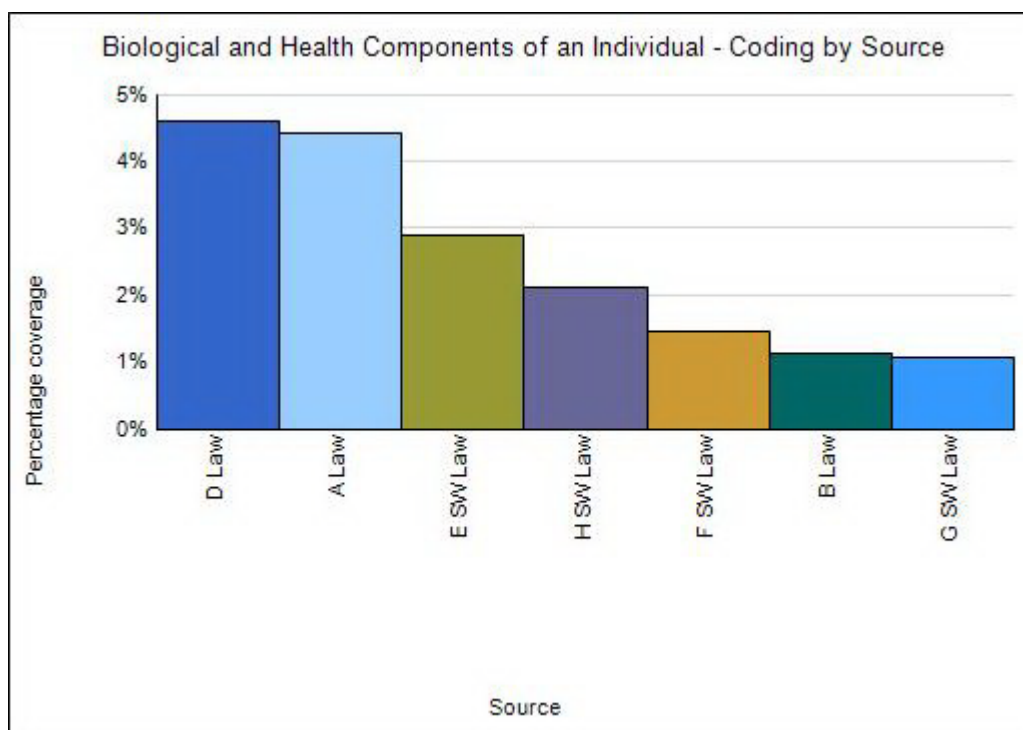


Table Seventeen indicates the percentage of code coverage of all cases.

- Two Law Cases provided more evidence of “hospitalization and emergency room history” and indicated health of intended guardian.
- All SW/Law Cases and one Law Case gave detailed descriptions of medications and what they were prescribed for; however only one SW/Law Case and one Law Case provided the dosages of medications, which indicated more thoroughness. One Law Case mentioned that the respondent “takes pills”, but gave no indications of what or why they were taken.

[<Internals\CASE A Law Only>](#)

Physician and nurses at nursing home.

It was stated that respondent's doctor had him taken to a nursing facility because of health issues. He was being taken to the hospital every 4-5 months because of malnutrition while living with his wife, but then was sent back home.

Reportedly, the respondent has dementia. He cannot go out alone, cannot drive, or eat on his own.

Respondent had history of multiple hospital admissions when under the care of his second wife.

[<Internals\CASE B Law Only>](#)

Law student spoke with a nurse and received respondent's diagnosis as bipolar, but there was some confusion about accuracy of the diagnosis. According to the V.A., the respondent was judged to be psychotic. The law student provided that respondent takes "pills".

The respondent was identified as having some physical medical problems--Hypertension and Chronic Kidney Disease.

Potential guardian, reportedly has no medical conditions or medications.

[<Internals\CASE D Law Only>](#)

Nurses, doctors, and caseworker at nursing home.

Stroke, polyuria, polydipsia, incontinence, syncope. Respondent reported not to follow his diabetic diet well. His family was reportedly giving him soda, chips, etc.

Respondent health conditions – vascular dementia, depression, diabetes, hypertension, coronary artery disease, CVA, back problems.

Respondent was brought to ER by his family because of health problems.

Obtained respondent's medication list with the reasons for each medication.

Medications: Vitamins; aspirin, Atenolol 5mg; Diltiazem 180mg; Glyburite 5mg (blood pressure); Hydrochlorothiazide 25mg (blood pressure and incontinence); Lisinopril 40mg (blood pressure); Colace 100mg; Glucophage 1000mg (diabetes); Risperdal 5mg (psychosis); Seroquel 25mg (psychosis); Ativan .5mg; Dilantin 400mg; Dulcolax (constipation); Tylenol; Maalox(stomach); Oxazepam 30mg (sleeping).

Student detailed history of hospitalizations = 6 times.

[<Internals\CASE E Law and SW Team>](#)

3 physicians (1 psychiatrist) caring for respondent, nursing home staff/nurses.

Obtained information from doctors – reports which showed detailed office visit notes.

Daughter reported that her mother (respondent) was becoming more difficult to handle.

Physician discussed medication compliance with respondent. She had a physical exam.

Diagnoses: included: dementia with psychosis, urinary tract infection (UTI), hypertension, GI reflux and Barrett esophagus, ischemic bowel, pancreatic insufficiency, coronary artery disease, status post myocardial infarction, mitral valve prolapse, lumbar spinal stenosis, osteoporosis, and Parkinson's disease.

Medications: Norvasc (blood pressure), Augmentin (anti-boitic for bladder infection), Tylenol (pain), Lexapro (antidepressant), Advan (anti-anxiety), Hydrochlorothiazide (hypertension), Risedronate (osteoporosis), Risperdal (anti-psychotic).

Respondent was to be admitted to the hospital for urinary tract infection. Neuro-psychiatric work up.

Respondent was hospitalized with pneumonia, hallucinations, severe UTI, disorientation, confusion, and discharged to a nursing home. She is wheelchair bound, but can make small steps.

[<Internals\CASE F Law and SW Team>](#)

Doctor, nurses, Certified Nursing Assistants, director of Alzheimer's secured floor at nursing home.

Social work student reviewed respondent's complete medical file at the nursing home.

Nursing home provided copies of medication list and necessary documents.

Respondent's had diagnoses: dementia due to Alzheimer's disease, chronic heart Failure, and coronary artery disease.

Respondent's medications: Terazosin (10mg); Lorazepam (1mg for anxiety); Furosemide (40 mg water pill); Lisinopril (10mg, hypertension); Sprionolactone (25mg, water pill); COREG (3-125mg, hypertension), and Risperdal (2mg, antipsychotic).

[<Internals\CASE G Law and SW Team>](#)

Primary Care: Veterans' Administration Physicians/Nurses

Hospital Affiliation: V.A. hospital

Diagnoses: Deaf since birth; fairly good health otherwise; does not seek medical help often.

Eye/Vision Problems = ward reportedly vision has declined making it difficult to lip read

Speech Issues: ward can speak but it is unclear; difficult due to deafness - completely deaf since birth

Medication List: No medications reported.

Physical Health of caregiver? Lupus and diabetes.

[<Internals\CASE H Law and SW Team>](#)

Respondent/Ward's medical record of inpatient hospitalization at (identified hospital).

Respondent/Ward saw at least 7 different physicians.

Team reviewed medical records from in-home physician, identified hospital, and pharmacies (11 different pharmacies).

Home physician is primary care provider according to respondent/ward.

Respondent's documented diagnoses: Basal Ganglia Infarction (CVA), Carcinoma, Diabetes Meletes, Hypertension, Gastro-esophageal Reflux Disease (GERD), Degenerative Arthritis.

Respondent/Ward's medications: Gabapentin, Clonidine, Hydrochlorothiazide, Diltiazem, Minitran, Ranitidine, Topomax, Oxycodone, Tylenol with Codeine, Prem Pro, Amtrityline.

Ward was able to give the names of two doctors she sees at second identified hospital.

Ward listed her diagnoses as: colon cancer, high blood pressure, heart problems, arthritis, 2 CVAs, foot surgery - pin holding foot together (feet constantly hurt). Team looked at ward's feet noting there was evidence of swelling and scarring.

Respondent/Ward was declared disabled due to chronic pain syndrome from podiatric surgery.

Question: What kind of information was provided about the psychological issues/background/concerns about the respondent and/or guardian, including psychological history, diagnoses, prognoses, psychiatric professionals, cognitive evaluation, dementia indicators, suicide indications, alcohol and substance abuse

indications, behavioral and thought content concerns, and/or adjustment issues, if applicable?

TABLE EIGHTEEN. Psychological Components Chart

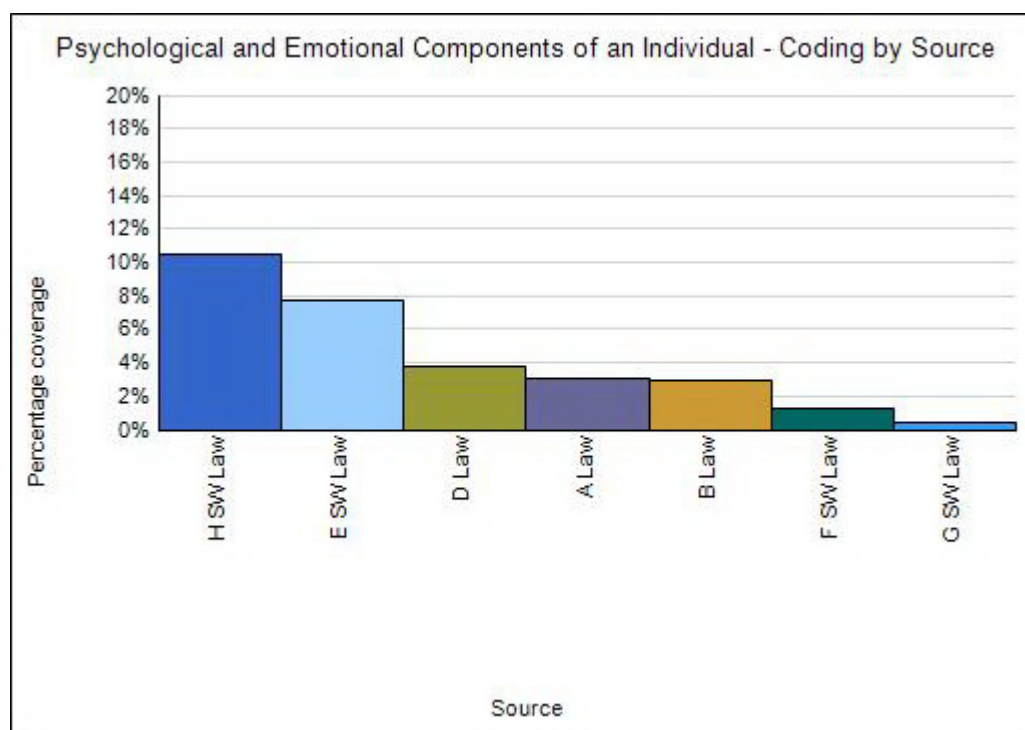


Table Eighteen displays the percentage of psychological areas coded; however, percentages may reflect that certain cases tended to have more psychological issues than other cases.

- Specifically, SW/Law Cases gave more indications of “psychological prognosis”, “suicide screen”, alcohol and substance abuse screen”, and “behavioral and thought content concerns”. However, this does not mean that Law Cases did or did not have those issues, but they were not noted.

[<Internals\CASE A Law Only>](#)

Reportedly, the respondent seemed extremely disoriented. He was not able to attend to questions and was easily distracted. He confused his family members a lot.

Nurse believed that respondent would continue to decline and daughter would not be able to care for him.

Respondent diagnoses: vascular dementia.

[<Internals\CASE B Law Only>](#)

Respondent had history of chronic mental illness; institutionalized for over 30 years.

Respondent was living in an identified Veteran's Administration Center in the Psychiatric Ward.

V.A. social worker, nurse, and physician – psychiatrist.

The respondent had varying mental health diagnoses – schizophrenia, bi-polar. Law student spoke with a nurse and received respondent's diagnosis as bipolar, but there was some confusion about accuracy of the diagnosis. According to the V.A., the respondent was judged to be psychotic.

Respondent stated that he didn't like to shake hands, because he believed hands are dirty.

Respondent knew he had an older and a younger brother, and a younger sister - identified them by name. He stated a preference for one brother over the other.

Respondent knew where he was - a mental hospital. He is allowed to go out on privileges unsupervised. Respondent knew he received weekly spending money, but did not know how much his monthly income was.

[<Internals\CASE D Law Only>](#)

Reportedly, respondent is hostile and uncomfortable in the facility. Respondent has poor mental health and psychotic symptoms.

Respondent reportedly responded slowly to nursing home life, but eventually his temper and awareness began to improve. During meeting with GAL, respondent started out

agitated and then calmed down. He reported started out “pacing, shuffling, with poor eye contact”. He became more comfortable with student toward the end of the meeting. Not once was respondent able to carry on a conversation with GAL. GAL found respondent alert and responsive to questions, but had difficulty retaining information and limited in ability to hold a conversation. He lacked an understanding of the state guardian. Respondent appeared to think about questions he was asked.

Physician concerns about illicit drug use - Cocaine.

Neuropsychology evaluation was done.

Respondent’s diagnoses: Dementia with psychosis (hallucinations)

[<Internals\CASE E Law and SW Team>](#)

1 psychiatrist caring for respondent – to see for “new outbreaks”.

Daughter reported that her mother (respondent) was becoming more difficult to handle.

Physician discussed medication compliance with respondent.

Mini Mental State Evaluation done by physician. Reportedly verbally and physically abusive to daughter – explosive temper, paranoia, refuses to eat and drink, refuses to allow ileostomy bag to be changed by daughter at times.

Respondent had no response but appeared to try to process information.

Respondent is severely impaired - cognitively. Does not seem to comprehend or process much information.

Respondent’s diagnoses: Dementia, Depression and Parkinson’s disease. disoriented, confused.

Physician stated that respondent has disability because of dementia. Psychiatrist stated “cognitive deficits”; lack short term memory as well as long term deficits. Stated to be “totally incapable of making decisions”.

Has dementia – is alert but only oriented to self.

Social work student commented that the respondent was coherent, but confused and unclear about GAL presence and role, and concept of guardianship. Respondent’s presentation consistent with physician’s report – incapable of making decisions about health and finances.

[<Internals\CASE F Law and SW Team>](#)

Respondent reported to have dementia. It was stated by students that respondent did not understand “guardianship” but was able to express that he was “fine” with wife making medical and financial decisions for him. Reportedly the respondent has a tendency to wander, he was assessed to have poor judgment, elopement risk, poor reasoning skills, alert x 1 (sometimes x 2); he is incontinent of bowel and bladder. He knows his wife, but is often confused.

She felt that his dementia caused distrust in others.

Respondent has a wander guard in the facility.

needs will only continue to increase with cognitive decline.

Respondent’s had diagnoses: Dementia due to Alzheimer’s Disease

[<Internals\CASE G Law and SW Team>](#)

Respondent reported using alcohol in the past, but stopped.

Ward was appropriately dressed and groomed; he was calm and cooperative with appropriate affect; no signs of depression or cognitive problems.

[<Internals\CASE H Law and SW Team>](#)

Reasons for guardianship are mental illness issues. Reportedly 5 years of problems because of mental illness – paranoia, delusions – believes people are coming in through the windows, vents, hiding in the bed. Respondent nails windows shut, knives in windows, covering vents. Isolates herself in her home.

Respondent was deeply involved in the drug abuse subculture.

Respondent still abusing prescription medications, guardian reported “mom acts funny – not normal”, strange people go in and out of home

Reported that respondent is not taking diabetes medication

Respondent stated that someone chemically burned off her hair, but this was not true.

Judge agrees with in-patient stay for ward. Guardian to take ward to hospital and get inpatient from there (rehab).

Call from ward – frantic that someone is trying to harm her.

Hospital inpatient hospitalization in psychiatric unit.

Respondent's son explained that his mom calls with "crazy" complaints. She asked him to nail windows closed and look for people in the walls. He also expressed concern about other people living in the home – strangers - mom allows them in. She may be using illegal drugs. She took out an order of protection against husband but no valid reason for it – he is a good person, never harms her.

Respondent's husband states she has “imagination” problems, but is not physically violent. Respondent thought he and children were conspiring against her. Respondent smokes weed and drinks sometimes.

Possible diagnoses of Schizophrenia.

Blood tests showed Benzodiazepines, Cannabinoid, Cocaine, and Opiates.

Hospital diagnoses: Psychosis NOS; Cocaine and Marijuana Abuse.

Geri-psychiatric physician used various kinds of assessment tools to assess mental state and cognitive abilities of respondent. Physician believed respondent was both functionally and cognitively impaired. Increased delusions, paranoia, verbal and auditory hallucinations. Moderate to severe cognitive and functional disability, and suffers from hallucinations, persecutory delusions, amnesia, delirium, verbal and auditory hallucination as a result of CVA, aggravated by severe misuse of prescriptions, cannabis, and cocaine. Psychiatric physician felt respondent was a significant risk for overdose and drug interaction – respiratory arrest, coma, and death. It is not clear whether this psychotic state is drug induced or due to some underlying psychopathology. Respondent indicated poor relay of events.

Mother accuses guardian of trying to poison her or stealing from her.

Respondent going to different pharmacies to fill prescriptions if she is refused at one.

Ward met with team at law office – respondent was well dressed, clean, and hair was combed. Pupils were dilated – no distinction between pupil and iris – one dark circle.

Ward expressed that summer heat gave her white spots and showed students, but there was nothing visible to them. She doesn't have an AC because husband pulled it out of the wall, so he could get into the house that way. Ward reported that her husband set her on fire twice and paralyzed her in the middle of the night. She reported that her prescriptions make her “dead” and husband sneaks up on her while she is sleeping.

Husband ties her limbs, so they go numb. He's also tried to poison her many times. She

only eats food she prepares. Ward stated that she ate an entire cake (she has diabetes), because she will not leave food out for fear husband will poison it. Ward said she no longer takes her diabetes medication anymore because “anything can be put in syringe”.

Ward stated she also had multiple surgeries to remove scars from husband setting her on fire. No scars were observed by team. Ward shared about a part in the Bible about 2 Eves and that 1 was a vampire. Ward said she researches about this in the Chicago Public Library. She stated that the Holy Spirit overcame her at the library. The library staff said she passed out and started speaking Chinese. Ward seems to be religious – she said she would kill herself if it weren’t for God. Taking a life is a sin. Used to go to church and Bible study – no longer because husband is there. Ward said she does not go to sleep until 6 am because she feels husband will harm her. He’s on cocaine. Ward said she tried cocaine multiple times to understand husband’s frame of mind and why he wants to harm her. Ward reported going into rehab. She said doctors were amazed by how many drugs were in her system and that someone must have poisoned her. She also reported that the doctors and nurses beat her and other patients. Did not want to go back.

Question: What kind of information was provided about social issues/background/concerns about the respondent and/or guardian, including education, employment, family/family dynamics, friendships, religion and/or spirituality, pets, community support services, hobbies/activities, volunteering?

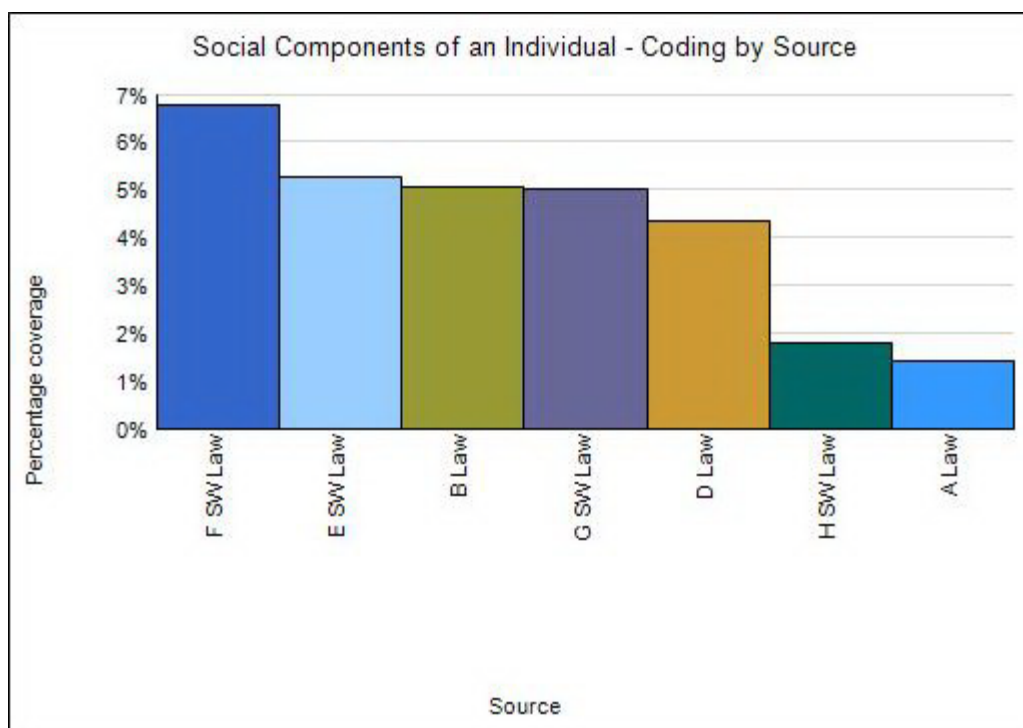
TABLE NINETEEN. Social Components Chart

Table Nineteen displays the percentage of coverage of social evaluation.

- Specifically, all SW/Law cases commented on family dynamics and gave indications of the type of relationship (supportive and/or conflictive).
- More SW/Law Cases indicated friendships, religion/spirituality, hobbies, and volunteer activities.
- Two Law Cases had elder abuse elements, but only Law Case showed evidence of adult protective services and court action. Being that adult protective services is primarily an advocacy program in Illinois, referral to such services may have provided support, education and resolution of problems/abuse.

[<Internals\CASE A Law Only>](#)

Daughter visits him twice a week at facility.

He was being taken to the hospital every 4-5 months because of malnutrition while living with his wife.

He also bought a new car, but it disappeared

the new wife started transferring money from the respondent's account.

Wife would also not allow family to visit and took no phone calls.

Daughter mentioned that she believed that new wife was poisoning her father

Prior to his marriage to the second wife, there were no disagreements in the family

According to daughter, the family wants her to be their dad's guardians, not his wife

Reportedly, the family take turns visiting dad at the nursing home.

All brothers and sisters agree to provide assistance.

Nurse reported that respondent's children are around a lot.

Respondent was reported to be ok with daughter being his guardian

\$15,000 bank account was depleted from respondent's account

respondent's life insurance policy was cancelled or cashed in.

[<Internals\CASE B Law Only>](#)

He finished two years of high school and then served in the military. He worked after service.

Respondent's dad was reported to have been deceased.

Respondent (2nd oldest child in family) had a different father, whom his mother did not marry. Mother had two children (boys) with respondent's father. She then married and had two more children – intended guardian – and a daughter. Mother is deceased. appeared to be a “close, caring family.”

The law student was told by petitioner and family that they do visit with respondent at the VA, usually on holidays and birthdays - bring gifts.

[<Internals\CASE D Law Only>](#)

IL Elder Abuse Investigator/Agency

His family was reportedly giving him soda, chips, etc.

Court Order limiting sisters access to Respondent's funds, Emergency Order of Protection against Respondent's sister filed, Plenary Order of Protection issued

He had a girlfriend prior to his health declining

Respondent's sister took him to the doctor to get guardianship of him and to "get access to his checks".

Doctor recommended a nursing home placement but sister refused. She was not monitoring medications.

Sister was alleged to have exploited Respondent's monthly benefits, and may have cheated him out of his share of an inheritance.

Family located outside of IL.

[<Internals\CASE E Law and SW Team>](#)

Intended guardian is an executive assistant at a company.

Respondent lived with her daughter for 8 years prior to nursing home placement.

Nurse stated that respondent's daughter visits every evening and brings respondent meals.

Petitioner visits mother everyday in the nursing home – in the evening after work. She also takes her walks outside or around the nursing home, and to the beauty shop every Saturday.

Intended guardian stated that she loves her mother and enjoys her companionship.

She thinks the nursing home is nice but it isn't "home". She already applies "substituted judgment" and tries to make the same decisions her mother would make if she was capable. Doctors defer to her when making care determinations.

Respondent indicated that she relies on and trusts daughter.

Respondent stated that anything could be discussed with her daughter.

Mother owns a property where her son lives 5 days a week due to local job.

Respondent has a son, who has a wife and kids; they live in another state.

documented a close mother-daughter relationship between Respondent and Petitioner, Mom is resistant to selling because she is concerned about son and where he will live during the work week.

[<Internals\CASE F Law and SW Team>](#)

Religious involvement was an important part of the individuals' lives. Christian church a major part of their community and lives. Petitioner/intended guardian, who was seeking Guardianship, had strong support from her religious community.

Pastor explained that church is willing to help with money and members are willing to volunteer to provide in-home support the to the family and respondent.

Pastor reportedly helps petitioner/intended guardian with making appointments and meetings.

She and husband raised 12 children, including his biological children. They have a strong relationship – husband recognizes her and is happy with her.

She identified “tension” with husband and biological children.

petitioner/potential guardian and respondent seemed to have a “good” support system, which included friends

Respondent participates in church services, preaches, sings along, and attends bible studies at nursing home. Respondent was said to interact with some people of his floor. Nursing home stated that there is no indication of abuse by family.

Log indicated that the petitioner visits the respondent most.

The petitioner brings foster children to see respondent too.

His biological children felt somewhat cut out of his life.

Over years the couple had adopted multiple children.

The family was at odds about guardianship - concerns were about lack of communication and the abilities of the potential guardian to handle respondent's care needs. issue arose that petitioner did not notify biological children about guardianship case.

They expressed being upset about lack of notice.

The biological children did not want their father in the home with the foster children.

Biological children also expressed concern about their stepmother's age and ability to care for respondent in the home.

They also wanted a split income and assets between father and stepmom.

All parties (biological family and wife) seemed to be sincerely concerned for respondent's well-being.

[<Internals\CASE G Law and SW Team>](#)

The ward regularly attends a Lutheran Church with services for the hearing impaired.

Ward's father was in the WW II (deceased).

It was learned that there was no other family with capacity or interest to care for brother if something happened to her.

His sister stated she does not know what he does during the day – she is not involved in his personal life.

Ward goes to the park with friends.

He has an 82 year old friend, who he likes to spend a lot of time with.

Sister did not want to be brother's guardian of person or POA for health care or rep payee. Feels ward is difficult to get along with - argumentative.

Apparent that brother and sister do not have a loving relationship.

She seems to feel upset that she's in any way responsible for him, but sister does not seem out to harm ward.

She does not seem to know much about him or his activities.

Ward has very little communication or interaction with his sister – she does not sign.

He lives with his mother, sister, and nephew.

Respondent has an on-off girlfriend from church.

Attended school for the deaf for a few years - learned sign language; lip reading.

Respondent works part-time at a taxi company cleaning out cars.

V.A. field examiner makes infrequent home visits.

Going outside to the park, seeing friends, church.

sister volunteers at a local senior center.

grown son lives with her/family.

Sister has friends, a cousin and ex daughter-in-law who provide support.

Also has in-home care services for her mother during the day, including home physician,

nurse, and bathing help.

[<Internals\CASE H Law and SW Team>](#)

Respondent's son expressed being very worried about mom. He is willing to help sister with getting care.

Respondent took out an order of protection against husband

Husband thinks he can take care of respondent, if needed.

Respondent feels she does not need a guardian, but thinks kids are trying to get her money.

In-Home Physician Agency involved with respondent.

Guardian does not want ward to live with her because they get into fights.

She likes to read the Bible.

Used to go to church and Bible study, but no longer, because husband is there

What kind of financial information, issues or concerns were identified regarding the respondent and potential guardian, including income sources (social security, pensions, assets, public assistance, and indications of financial instability) and medical insurance (Medicare, supplemental/private insurance, Veterans Administration medical benefits, Medicaid)?

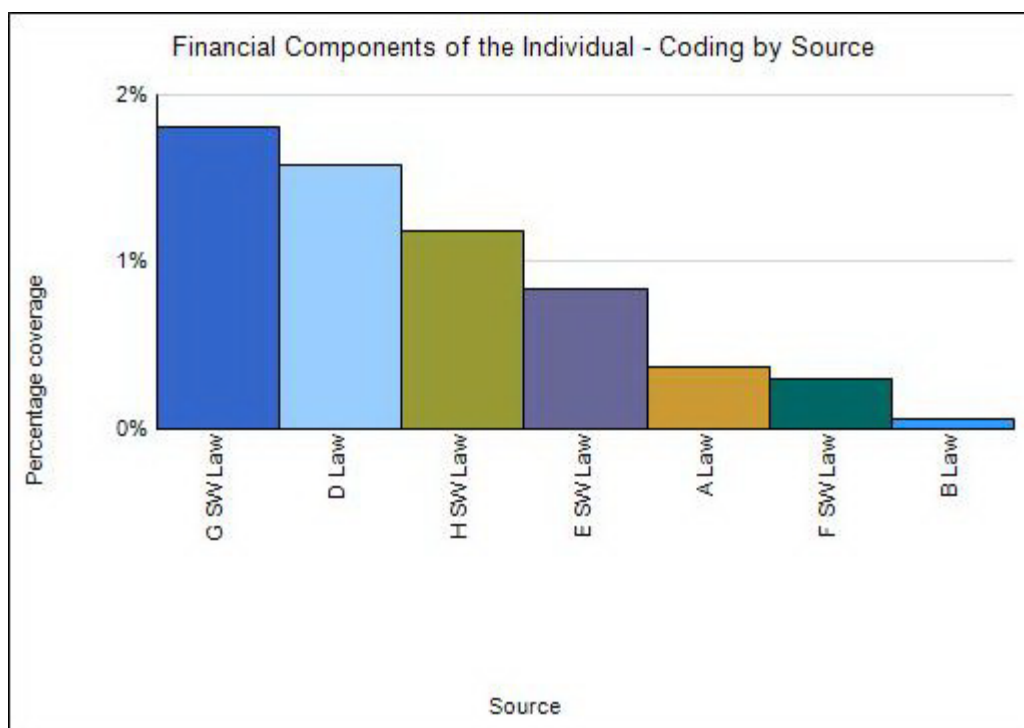
TABLE TWENTY. Financial Components Chart

Table Twenty displays the percentage of financial components found in each case.

- One SW/Law Case and one Law Case had the highest amount of financial elements coded.
- All cases indicated income as either social security and/or pension. Only one Law Case did not state how much income the respondent received monthly.
- All SW/Law Cases, except one indicated Medicare insurance for respondents, but the respondent specifically did not have Medicare coverage due to his history.
- Two Law Cases indicated V.A. medical benefits. However, based on the content of the file, it would seem impossible that the respondent in one Law Case did not have Medicare, since the respondent was receiving social security income, but this was not mentioned.

[<Internals\CASE A Law Only>](#)

respondent's income was \$800 in social security

[<Internals\CASE B Law Only>](#)

pension

[<Internals\CASE D Law Only>](#)

Respondent received a charity donation because he lacked appropriate clothing

Respondent was 1/3 owner of the property

Respondent received \$824 a month in VA benefits

Respondent's physical and mental health needs were addressed through the VA.

[<Internals\CASE E Law and SW Team>](#)

\$1000 Social Security Survivors Benefits

\$50,000 assets (savings)

home worth approximately \$250,000

Medicare

United Health Care from deceased spouse's pension (premium \$30 with \$1200 deductible).

[<Internals\CASE F Law and SW Team>](#)

Respondent has Medicare.

\$10,716 a month from Social Security

\$7200 a month from a pension

[<Internals\CASE G Law and SW Team>](#)

V.A. income was nearing the end – assets around \$9000.00

attorney for bank stated that “estate is wasting”. Estate was said to be depleted within a year unless something could be arranged.

Reportedly, the ward would get at least \$25,000 from the sale of mother's second home.

\$452 per month allotment

Health care benefits through V.A. – CHAMPVA.

Sister stated that she opened a bank acct and has saved \$2000 of ward's monthly benefits, in case of emergency.

Ward's estate holdings were dwindling. His expenses exceeded his income by \$100/month.

[<Internals\CASE H Law and SW Team>](#)

mom bought 2 cars and both were repossessed or disappeared.

Guardian expressed concern that mom doesn't have enough money to afford another place – currently in a subsidized apt = \$85 a month

Ward only receives \$740.00 a month in Social Security. Has Medicare and Medicaid, and other public assistance benefits.

May be serviced with eviction notice.

Not paying bills - has had utilities shut off for non-payment.

What kind of environmental exploration and information was provided about the respondent and/or guardian, including neighborhood/community, psychiatric hospital, nursing facility, subsidized housing/Section 8, senior housing, assisted living facility, apartment, and/or single family home, and evaluation of living environment?

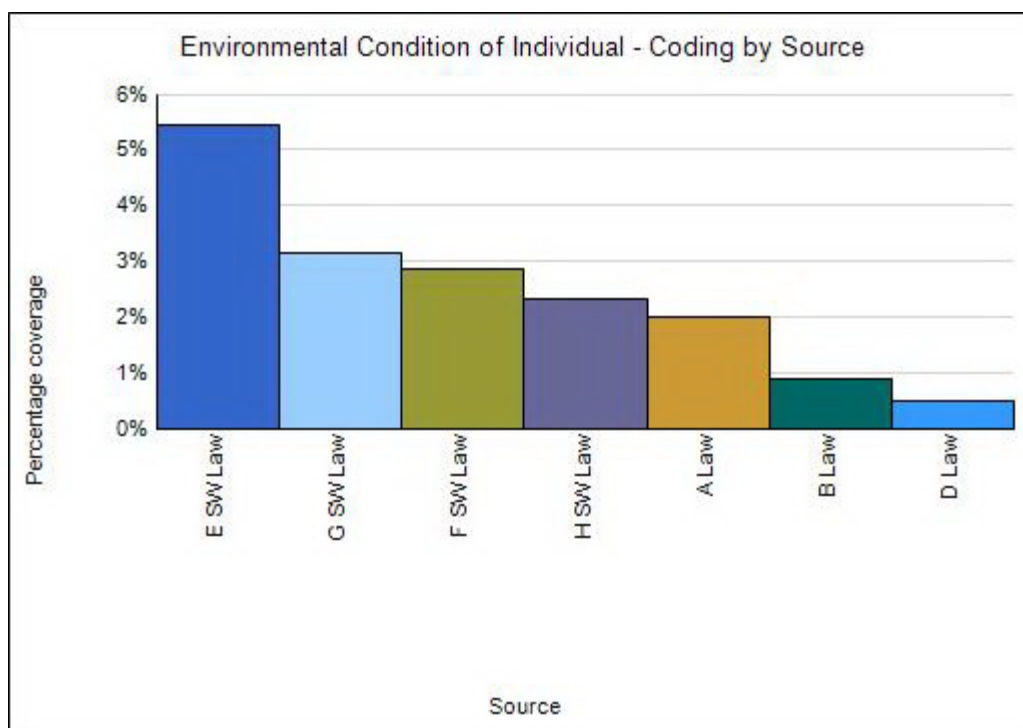
TABLE TWENTY-ONE. Environmental Components Chart

Table Twenty-one displays the percentage environmental elements coded.

- All cases noted what type of environment individuals reside in, but SW/Law Cases tended to have higher percentages than Law Cases.
- All SW/Law Cases provided more detail about environments of respondents and/or potential guardians.

[<Internals\CASE A Law Only>](#)

meet with the petitioner/intended guardian at her apartment

Respondent is in a nursing home

Nursing home appeared very clean and safe. Staff was friendly and respondent seemed adequately cared for. Security to prevent wandering out of facility.

[<Internals\CASE B Law Only>](#)

Respondent was living in an identified Veteran's Administration Center in the Psychiatric Ward.

[<Internals\CASE D Law Only>](#)

V.A. nursing facilities

The respondent lived in a room with 2 roommates

[<Internals\CASE E Law and SW Team>](#)

Nursing home was very clean and safe environment, seemed appropriately staff, staff was helpful and involved in interview process, provides respondent with activities and medical care.

The petitioner's home (address in file) was assessed – it was found to be a large-home, easily accessible for mom - spacious enough for respondent's wheelchair to be maneuvered through living room, dining room, and kitchen; first floor is accessible. Respondent's bedroom is on the first-floor and the layout is accessible for a wheelchair, and special equipment for the shower.

[<Internals\CASE F Law and SW Team>](#)

Potential guardian had respondent admitted into an Alzheimer's nursing facility due to his care needs increasing and her inability to manage at the time. Nursing facilities was also assessed by team. The facility was noted to smell of urine, but appeared to be very clean. Nursing home staff was friendly and helpful; Director of the Alzheimer's floor – she was cooperative, helpful, and agreeable. It was assessed how many staff are available. Social work student verified if current facility was up to appropriate federal and state standards.

Apartment (address listed in file) of petitioner/intended guardian was assessed by team. The first floor apartment was clean and organized. The bathroom was noted to be accessible, as well as bedroom. It had 5 steps to the front door of the apartment.

[<Internals\CASE G Law and SW Team>](#)

Ward indicated that he likes to be in at night because of gun violence (pop, pop, pop) and the police have arrested him to check for drug use. They held him at the police station, checking his arms for needle tracks, and then let him go.

Home Evaluation:

Living Environment = ward lives in a two-flat home with his mother, sister, and nephew. 5 stairs to front door; exits to backyard from kitchen and upstairs apartment; 11 steps to upper 2-bedroom apartment front door; home is accessible to client. Home was clean; not cluttered. Working utilities.

What room does client sit in most often? Own bedroom.

Fire Prevention (smoke detectors, fire extinguishers, plan of evacuation) YES

Is client capable of exiting independently from home in an emergency? YES

Is client capable of dialing 911 = NO - deaf doesn't use TTY

Rugs, electrical cords exposed? = NO

Home recommendations? NA

[<Internals\CASE H Law and SW Team>](#)

Respondent lives in a Section-8, garden-style 2-bedroom apartment (address listed in file). It is dark and cluttered. Many boxes stacked; lack of furniture. The bedrooms were not observed. Vents were no longer covered. Windows no longer nailed shut.

Reportedly 4 people are living in the apartment although that is against the rules of the building.

Team recommended that guardian move ward out of her neighborhood due to crime and drug use, to another safer place. Environment likely adding to problems.

Respondent may be evicted from her residence. Landlord is upset by steady stream of people in and out of the apt.

Question: What kind of information was provided regarding exploration into respondents' activities of daily living, level of abilities and/or needs, including medication management, planning/keeping appointments, being alone, transportation, housework, laundry, telephoning, money management, continence, mobility/transfer, grooming, dressing, bathing, eating/meal preparation?

TABLE TWENTY-TWO. Activities of Daily Living Components Chart

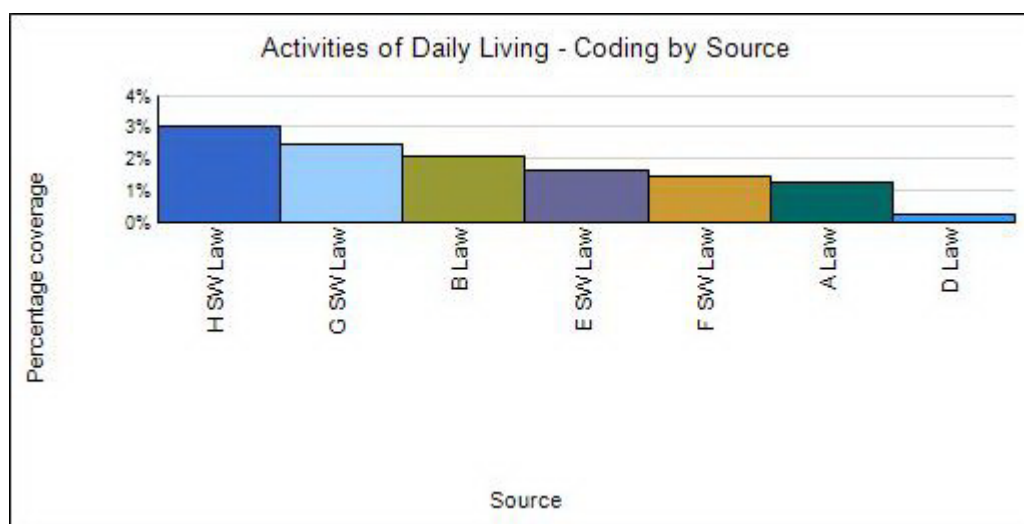


Table Twenty-two displays the percentage of Activities of Daily Living content found in each case file.

- SW/Law Cases tended to provide more well-rounded evidence of ADLs.

- Specifically, all SW/Law Cases commented on the respondents' abilities to be alone, manage money, eat/prepare meal, groom, dress, and their level of ability.

[<Internals\CASE A Law Only>](#)

Respondent cannot eat without prompts

Respondent became lost while driving

He cannot go out alone

He cannot manage medications

He cannot plan appointments

He is incontinent

[<Internals\CASE B Law Only>](#)

respondent was out of the facility alone/unsupervised, using his allowance at a store

The respondent was unable to identify how much money he receives each month, but knew he received \$25 a week for spending.

Goes out daily alone/unsupervised.

Takes medications with assistance from staff

[<Internals\CASE D Law Only>](#)

incontinence.

He was able to toilet himself.

[<Internals\CASE E Law and SW Team>](#)

Total care in all ADLs.

[<Internals\CASE F Law and SW Team>](#)

he needs 24/7 care; concerns about elopement

full assistance with bathing, grooming, incontinence, dressing

A nurse administers all medications.

Respondent is able to ambulate independently but sometimes needs support.

He eats well but requires prompting.

Husband reportedly failed to pay certain bills/taxes which affected them significantly; he had not been diagnosed with Alzheimer's yet.

[<Internals\CASE G Law and SW Team>](#)

It was believed that ward was able to care for himself, but requires supervision, because he never lived on his own before.

Requires financial assistance – never kept accounts – doesn't write.

Plan Appts: Goes to work, visits friends, attends church independently. Needs help with going to medical appts (per sister), but he rarely sees a physician.

Eating/Meal Preparation: Independent

Bathing: Independent

Dressing: Independent

Grooming: Independent

Transferring/Mobility: Independent

Continence: Independent

Money Management: Sister manages and gives allowance; ward capable of purchasing/making change.

Telephoning: requires full assistance – doesn't use TTY – doesn't write.

Laundry/Housework: With help of sister

Transportation: Family/Friends/Public Transportation

[<Internals\CASE H Law and SW Team>](#)

According to the husband, the respondent able to care for self, but needs reminders about medications.

Ward said she no longer takes her diabetes medication anymore because “anything can be put in syringe”

severe misuse of prescriptions, cannabis, and cocaine. Psychiatric physician felt respondent was a significant risk for overdose and drug interaction – respiratory arrest, coma, and death.

Psychiatrist felt respondent was incapable of financial decisions, self-care, medical care. He stated that the degree and permanence of impairments cannot be determined without extended detox, medication management, out-patient counseling, and supervision.

Ward met with team at law office – respondent was well dressed, clean, and hair was combed.

Utilities have been shut off and respondent is late with her rent.

She only eats food she prepares. Ward stated that she ate an entire cake (she has diabetes), because she will not leave food out for fear husband will poison it.

Question: What kind of exploration and information was provided about the appropriateness of care plans for respondents and was there evidence that students assisted in care planning with the respondent, guardian and/or health professionals, including emergency hospitalization, psychiatric hospitalization, additional guardianship assistance, housing for individuals’ with disabilities, senior housing, assisted living, in-home care (home health agencies – private and/or state services) , nursing home placement, crisis intervention/mediation, psychoeducation,

respondent feedback about care plan, medical professionals feedback about care plan, social services and/or mental health providers, and respite?

TABLE TWENTY-THREE. Care Plan Components Chart

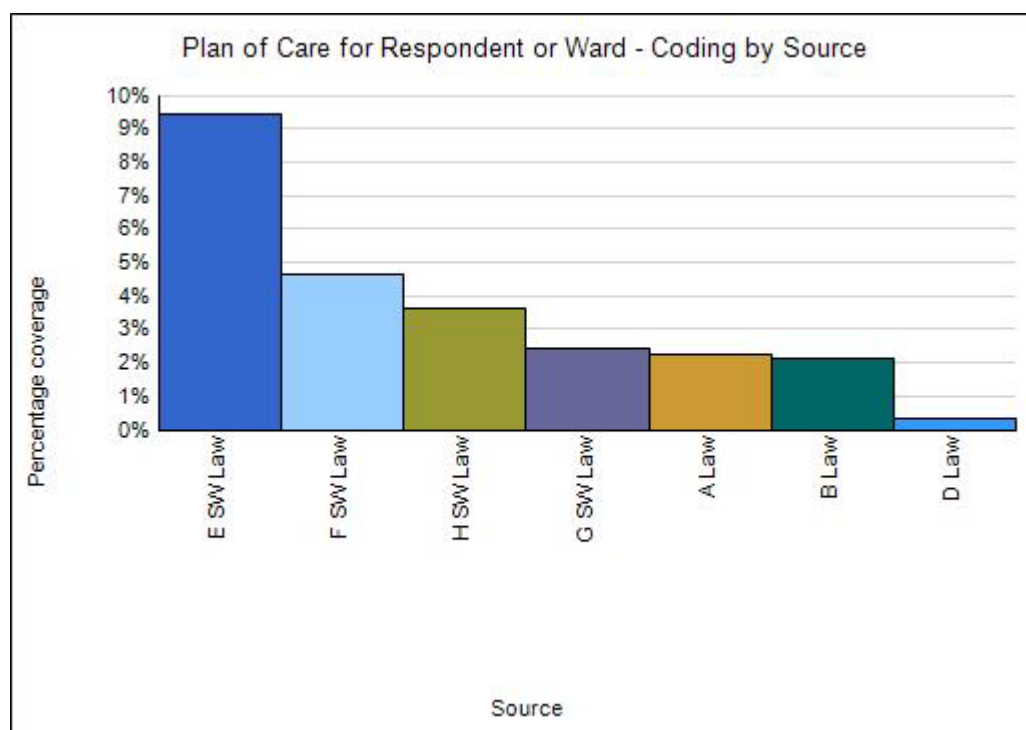


Table Twenty-three displays the percentage of codes care planning found in each case file.

- All SW/Law Cases tended to have more care planning elements then Law Cases.

[<Internals\CASE A Law Only>](#)

The daughter is planning on bringing dad to her home where she and a friend (licensed homemaker) will provide care for dad. All brothers and sisters agree to provide assistance.

Nurse definitely believes respondent requires a guardian.

Respondent was reported to be ok with daughter being his guardian, but did not want to live with her. He reported that he did not want to stay in the nursing home, but return to his own apartment.

One of the nurse's at the nursing facility felt that the respondent required social interaction and that he should not leave the nursing home to move with his daughter. It was felt that respondent would continue to decline and daughter would not be able to care for him.

[<Internals\CASE B Law Only>](#)

Students reported that respondent displayed agitation when discussing his life in the Veterans Administration center. He reported that patients are mean to him and did not like being locked up. It was stated that the respondent had “different feelings” about guardianship

respondent would continue to reside at the V.A. hospital.

Kept changing his mind about whether he needed a guardian.

There was no intention of moving respondent from VA center.

[<Internals\CASE D Law Only>](#)

The respondent did not feel he needed a guardian, but was “ok” with his daughter serving in the role and seeing his grandchildren.

He preferred to leave the nursing home and move from IL

Nursing home placement was determined plan of care.

[<Internals\CASE E Law and SW Team>](#)

Petitioner knew all of the medications her mother takes and made a chart of the meds and times taken. She seems to clearly understand her mom's care needs – her motivation for guardianship to provide proper care.

Petitioner wants to conserve her mother's money, because she realizes that she will eventually need full-time nursing home care. She is realistic about her ability to care for her mom in the long-term.

For now, petitioner feels she can manage her mom's care at home with professional help, which would be better for respondent's overall well-being. The caregiver will be in the home during the day while the petitioner is working. She has already found an experienced caregiver.

Intended guardian stated that she loves her mother and enjoys her companionship. She thinks the nursing home is nice but it isn't "home". She already applies "substituted judgment" and tries to make the same decisions her mother would make if she was capable. Doctors defer to her when making care determinations.

He believes his sister provides the best care for their mother. He prefers his mom to be at home rather than in a nursing home for as long as possible.

Respondent stated she would like to live with daughter.

Doctor stated respondent should remain in nursing home, but during a phone call stated respondent could return home with daughter and a full-time caregiver.

nursing home opinion conflicts with doctor's report

Nursing home staff believed daughter is capable of caring for mom at home.

Daughter wishes to sell home to provide more money for care.

The student team forced the doctor to clarify their recommendations about an appropriate

care plan for the respondent because of conflicting information, which was creating frustration and upset with the family. The student team explored the opinions of the nursing home staff, family and doctors and recommended that the best care plan was for the respondent be placed in the care of petitioner/guardian at home.

[<Internals\CASE F Law and SW Team>](#)

church members are willing to volunteer to provide in-home support the to the family and respondent.

medical professionals preferences for respondent to remain in nursing home

Petitioner/intended guardian seems to understand respondent's health and care needs, and she is thoroughly researching all options, resources, care options, including social services, state programs, in-home care and permanent nursing home placement.

Discussed having a male in-home caregiver, if this is the preference of respondent.

respondent to stay in the nursing home due to care needs. He may have overnight visits to his familial home when able. Petitioner/intended guardian is to update all of the children about respondent. Nursing home was requested to make report to children too. if respondent returns home, potential guardian is prepared to admit him back to the nursing home, if his needs exceeded their abilities to manage.

The student team facilitated a compromise on the wife's part regarding whether respondent should stay in the nursing home. They also made recommendations that the wife and her husband's biological children should have more regular and frequent communication regarding respondent's needs, condition, and well-being.

[<Internals\CASE G Law and SW Team>](#)

housing options - low income senior housing, assisted living, Access Living

Office of Public Guardian (if assets over \$25,000) or Office of the State Guardian (less than \$25,000 in assets), if ward determined to need plenary (person and estate) guardianship.

home health assistance.

Medicare and Public Assistance/Medicaid programs.

the ward would get at least \$25,000 from the sale of mother's second home.

ward showed that he had a poor plan for the future. He stated that he preferred to stay in his house, if something happened to his mom and/or sister. He was receptive to the idea of living in an apartment with assistance - social services agencies.

Sister expressed being fine with a reduction in ward's monthly income in order to conserve his money.

[<Internals\CASE H Law and SW Team>](#)

Geri-psychiatrist asked court to place respondent in detox then have full exam with MRI and psychiatric screening. He was willing to continue to assist pro bono for additional screening necessary to make informed decision.

Ward does not think she has a problem and will not go into rehab.

team contacted daughter to express concern about ward not taking her diabetes medications. Needs to take mom to hospital emergency room as soon as possible.

Putting self in danger. Hospital may check out mental health issues while she is there.

Guardian needs to file petition in mental health court.

Team explained to the guardian about her mother's health/mental health issues, drug use and abuses. Concerns for her well being and treatment needs.

Support offered from team/clinic. Students offered ideas/resources and suggestions for

help. Spoke with respondent and guardian in person and via phone. Tried to educate guardian about her role and abilities to help ward. Offered guardian to step down from guardianship role is too difficult and appoint Office of the State Guardian.

Question: Did students make references concerning potential caregiver stressors?

[<Internals\CASE A Law Only>](#)

The daughter works daily from 8:30am to 5pm.

The daughter is married and has one son, who lives at home.

[<Internals\CASE B Law Only>](#)

Potential guardian is married with 5 children (2 away at college; 3 at home).

Potential guardian works.

Older brother is disabled; younger sister is a single-mother of one and is busy.

[<Internals\CASE D Law Only>](#)

Daughter has a family, started taking classes and is involved in a work-study program

Daughter lives in Indiana.

Daughter missed 2 scheduled appointments with law students.

No answer from respondent's daughter when asked to do certain tasks.

Daughter was unable to get to court.

Daughter was not visiting her father in Chicago

[<Internals\CASE E Law and SW Team>](#)

Petitioner/intended guardian is working

Daughter reported that her mother (respondent) was becoming more difficult to handle.

Respondent reportedly verbally and physically abusive to daughter – explosive temper, paranoia, refuses to eat and drink, refuses to allow ileostomy bag to be changed by

daughter at times.

Daughter reported that her mother (respondent) was becoming more difficult to handle.

Respondent reportedly physically abusive to daughter.

[<Internals\CASE F Law and SW Team>](#)

Wife has younger children at home – adopted/foster.

Biological children and sister expressed their concerns about respondent's health and the abilities of the intended guardian to care for him.

[<Internals\CASE G Law and SW Team>](#)

Caregiver volunteers at a local senior center.

Mother requires intensive care. Caregiver provides about 12 hours of care/supervision a day for mother.

Caregiver feels burdened by having to keep track of her brother and his money, as well as 24/7 care responsibilities for mother.

Exhausted and defensive.

Caregiver has Lupus and diabetes.

Exhausted and defensive.

[<Internals\CASE H Law and SW Team>](#)

Guardian works full-time; is a single parent.

Problems about her pregnant daughter.

Daughter will not allow mom to live with her, because they will fight and mom will tell everyone she's trying to kill her.

Guardian feels stressed that these are her responsibilities as guardian. She is the only child who visits mom.

Team assessed that guardian needed more comprehensive emotional support/services.

Guardian explained that she is burdened with problems about her pregnant daughter.

Guardian not performing duties – does not seem knowledgeable about guardianship powers and/or resources available.

GAL spoke with guardian, who expressed frustration that nothing has changed with ward since guardianship. No change in respondent's condition over the last year.

Guardian wants mom to stop drug abuse. She thought court would help with this but did not.

Daughter seems unaware of her authority as guardian. She did not know current physicians, medications, diagnoses.

No evidence of guardian or family making any effort to seek treatment or protect respondent in any other way besides asking the court to handle issues.

Guardian did not know respondent's diagnoses or hospital discharge plans.

Guardian did not know ward's current physicians, medications, diagnoses.

Guardian was under the impression that mom was never diagnosed with any mental illness – no mental illnesses in family.

She is the only child who visits mom.

Guardian missed court hearing.

No change in respondent's condition over the last year.

No evidence of guardian or family making any effort to seek treatment or protect respondent in any other way besides asking the court to handle issues.

Was there opposition to guardianship by the respondent or others, what were the reasons for opposition, did the respondent attend his or her hearing, and was guardianship granted?

[<Internals\CASE A Law Only>](#)

Daughter appointed guardian.

Stated he wanted to attend court hearing.

[<Internals\CASE B Law Only>](#)

Brother appointed guardian.

[<Internals\CASE D Law Only>](#)

OSG appointed guardian

Respondent contested guardianship by his sister during initial GAL investigation by professional attorney assigned by the court.

Respondent stated that he wanted to come to court.

[<Internals\CASE E Law and SW Team>](#)

Daughter appointed guardian.

[<Internals\CASE F Law and SW Team>](#)

Wife appointed guardian.

Guardianship was partially contested by respondent's biological children and his sister.

The Cross Petition filed by respondent's sister and biological children did not directly challenge the wife's bid to obtain guardianship, but did voice various concerns about respondent's well-being, the ability of the intended guardian to care for him - elderly, memory issues reported - and the advisability of the plan to alert them if respondent returned home in his wife's care and, if he remained in the nursing home, updates about

his health and well-being.

[<Internals\CASE H Law and SW Team>](#)

Respondent contested guardianship

Daughter appointed guardian.

Law and Mental Health Professionals Questions

Question: In what ways do you think the guardianship system could be improved, such having more time to investigate the case, education of guardians, etc.?

[<Internals\Law Professional Transcript1>](#)

I do believe more investigation is required. The only caveat to that, is that, um, a lot of money can be expended in this investigation and, in some cases, it's, you know, pretty cut and dry, so then to require, if you require a lot more investigation for all cases, it's going to make guardianship even more expensive and drawn out then it already is for families. Um, but I do think in some cases, a guardian is just appointed a little bit too hastily and without much, um, investigation to what's going on and maybe they don't need a guardian (very quietly stated). Um, yeah, it's all I'm going to say (nervous laugh).

Um, I think that, um I think there could be better education for guardians that are appointed. Um, I think it could be, somehow, more efficient. It's just seems that a lot of times, like, things just draw, are drawn out. I think they could, um, computer, like a, have a electronic records and orders and um, because so often you get an order and you can't even read it, because the attorney that wrote it, you know, and a lot of times they are pretty important. Um, I think there could be more oversight as to what the GAL does and doesn't do, maybe like, guidelines as what the GAL is supposed to look into, you know, things they can check off that they've, you know, investigated. Instead of just

kind of whatever they happen to do, they come into court and tell the judge and it's ok. Um, I think there could be better access to the system for people who can't afford an attorney. Like they could make it easier, it's just SO complicated right now, all you have to do to file for guardian, to become someone's guardian, so it just scares a lot of people off, and, um, I think it could definitely become simplified. Um, and then maybe, a greater, kind of, uniformity among the judges about what they're going to require and not require, because so much of it you just, you know, learn over time, this judge wants this but not this, this judges wants this but not this, but for someone new coming in, or a pro se petitioner, you know, they have no idea. But, if there was some sort of like – all judges require this and this and this, and I think that would be a little bit more fair to, maybe, an attorney that doesn't really practice there or a pro se petitioner. And, it would ensure that, you know, that every case heard is thorough, that they looked into everything.

[<Internals\Law Professional Transcript2>](#)

It certain is imperfect, it's a very broad...the probate act is like how many, like 70 pages. It varies so much depending on who we're dealing with. It doesn't cover so many situations adequately.

Another problem is that there is something in the probate act that allows for the appointment of limited guardian, but there's no set form to complete to get a limited guardianship, so you have to petition to have them declared completely disabled, knowing all along that's clear that you're going to try to get a limited guardianship, but you have to go through the whole thing. It's not very sensible.

I wish there was some way also to be more expeditious about it.

...costs are of concern.

[<Internals\Mental Health Professional Transcript1>](#)

...better monitoring of the CCP 211, the whole guardianship process.

...really think that guardianships need to be tailored to each individual, because we have a system now that just blanket gives the guardianship out. And, that doesn't necessarily, you know, they could order that, ok the payment of bills is to be done within the parameters of having this person sit with us, and lets go over the bills together. I'm not saying not to pay the bills, but the audit of the books is done with that person. If they're capable of sitting through and, you know, and this is a factor in their lives, which is very important to them, then I think they should be engaged in it. I don't that we should have this all encompassing, check offs. And, the other thing is that I think an assessment as to be done of the guardian. I think that's probably the biggest problem I have with the CCP 211, is that the guardian does not have an assessment done.

I would look to see that comprehensive assessment done on a guardian. I think that you would weed out a lot of people and they also, you would have an opportunity to tell them - is this what is going to be involved and this is how it's going to shake your world.

...they have a tendency to RUSH into they need a guardian, well, maybe not necessarily. And, certainly, mental health issues have to be connected to the physical health issues, let's see what's going on. Let's look at both sides, because this person does not live in a vacuum, it's not just depression, maybe I have, I'm having chest pains or I'm very, not complying with medications, or something isn't right with the medications, or I'm taking them at all times of the day and night, and nothing works. And, I think a lot of times you have to, first of all, let's do the baseline and then move on. It takes time.

And, I think sometimes these guardianships are really RUSHED.

To plug the hole, it's like, well, wait a minute, do you understand this person is not, you're asking me to say something that I truly cannot assess at this point, because this person is so fried. And, it be just from the emotional stress of listening to 3 kids screaming and yelling about, this has got to be done, that's got to be done, this, you gotta do this, you gotta do that. And, she may be or he may be in the process of grieving, and it could be a year after the death, it could be two years after the death, but we've never put it into order, we've never sort out the bookshelf, you know, and it's come to that point, we're doing it and it just, it just takes time. So sometimes I think they jump the gun.

[<Internals\Mental Health Professional Transcript2>](#)

I think someone should be seen more than once. Maybe over weeks, maybe even months.

Yes, I think social workers are more aware of, we're trained to pay attention to mental health issues and functional issues. Um, when there is just a lawyer involved, um, I want to give an example. A case I was involved with, several years ago, many years ago, was a guy, who living in a CHA building, clearly not making it. Moderate, at least, dementia, now he was able to get out and walk around the community, but he was having difficulty paying his bills, um, he wasn't getting the food that he needed, he wasn't dressing appropriately. Um, when I was assigned to the case, I did an assessment, I was sure that this wasn't just something that was temporary. I assessed that this was a longer term condition for him. I initiated guardianship and, the person who was appointed GAL, looked upon it as only his job to fight the guardianship, because he saw, he met with the

client, and heard only the client did not want a guardian. The GAL had no understanding in talking with him that this was someone, who very demented, someone, who was failing drastically in the community. And, his impression throughout was – Well, he said no, so it's my duty – and I can understand that "duty" part, it's just that he had absolutely no understanding that just because this guy said "no" it didn't mean that he was capable of managing himself. So, I've seen when there's not a good assessment, that things fall by the wayside.

...because there just aren't the same resources and the approach the public guardian, or not the public guardian, but the state guardian. They're so overworked and my experience with them is, literally in the past, literally, they say – does the person want a guardian? No. Well, then we can't do it – with no regard to whether the person needs it or not.

Lack of resources.

Question: How accurate are physicians' statements (CCP 0211 A-B) of respondents' abilities – cognitive, physical, functional abilities?

[<Internals\Law Professional Transcript1>](#)

Again, I think it REALLY depends on the physician. Some physicians will type up detailed, AND TYPE UP, which is big, because lots of times the handwriting is illegible, but they'll type up detailed comments about their abilities - they can do this, they can't do this, their score on the Mini Mental is this. And, other physicians, it's almost like they know what the attorney wants of them, so they'll just write totally incapable, totally incapable, totally incapable, and sign their name, where the person may not be, you know, totally incapable, but they just know that's what's needed for the CCP 211. Um,

so, yeah, I think it completely depends on the physician and their specialty, and sometimes they're asking, um, the primary care doctors to fill these out and they don't have much experience with cognitive problems, so...

[<Internals\Law Professional Transcript2>](#)

It's a scenario where you walk in to see this doctor we're going to get a report that says we need a guardian. It's kind of like he writes them and sends them off. I don't think he means it poorly, partially it's his point of view and how he sees people, and also it's to cover his ass. He doesn't want something to happen to someone and then it comes back on him says – this person needed a guardian why didn't you do something?

Liability issue there. (Garbled)

I think they're generally pretty good. I think with some of them they tend to be a little cautious.

[<Internals\Mental Health Professional Transcript1>](#)

...with the CCP 211, there's major issues. Who are all of the family that are involved? Who has control? Especially if it's finances. Does this person understand financial matters? And the underlying principle that I've always practiced on is still to treat this person with respect and make sure that I at least give them some choices. And, you know, they may have three choices, I mean, it depends upon really their cognitive ability and what's gone on. Certainly the involvement of family doctors in assessing this person. Do they understand, how long have they been the physician of record, you know, are they looking at or do they understand family dynamics? So, you have to take that all into consideration. And, I don't think the CCP 211 does that.

...the CCP 211 has to be done when, I believe, it should only be done when that person, the senior, is at the point of, and a thorough assessment has to be done, you know, take into, not only where they're living, who they're living with, who are the other players in the vicinity, and I think the CCP 211 does not often take into consideration those factors, it doesn't secure that person, and that person needs that right to have an independent life as possible. And, unfortunately, the CCP 211, doesn't, I don't believe, especially here in Illinois, doesn't address that. It doesn't consider the person. I don't recommend it until there's war, till none of the family can do anything...

The 211 has to be done when, not only that, but when you have a doctor who knows this person and who has done the physical and we've ruled out things out like over medication, depression, nutrition. Take all those factors in and then be able to go ahead and say – ok, now she can't do this any longer or he can't do this any longer – they're not safe by themselves...

[<Internals\Mental Health Professional Transcript2>](#)

...I have coached doctors on how to complete them.

We had two or three doctors we were working with and I don't recall whether they had never filled them out before or whether they had just not filled them or done them incorrectly before. But, we had at least a couple of doctors who were filling them out with information that wasn't solid enough for the courts, good enough for the courts, and I was working with a lawyer, who was able to point this out, so she gave me information and (garbled), and I was better able to tell the doctor needed to go on it.

Question: How are you prepared to conduct in-depth assessments of respondents/clients, including biological, social, financial, environmental, family issues, etc?

[<Internals\Law Professional Transcript1>](#)

How are they prepared (thinking)? I don't know if there's any sort of special training that someone needs to become a GAL? I think, you know, it's just, that people have been doing this forever, so they just learn, um, what a court wants to hear about and they know what to ask about those types of things. Um, but, I don't think they have any sort of formal preparation. It's just kind of, a, learn on the job type of thing.

[<Internals\Law Professional Transcript2>](#)

There's certainly no training for it. Um, there are a couple...there's a GAL, an attorney, who is also a nurse, who I've worked with before in terms of medical assessments, deficits. But otherwise, there's no training. It's just really experience.

[<Internals\Mental Health Professional Transcript1>](#)

Well, we have to go through a lot of education, you know (laughs)?! To be a social worker in IL you have to go to an MSW program. Then there's field work, clinical experience – direct practice work, continuing education – most of the education comes from experience working with people.

[<Internals\Mental Health Professional Transcript2>](#)

Let's see, through classes in school, I guess, some concentrated on the actual process of assessment. I know I had to do at least one complete assessment in grad school. I suspect the grad school experience may be even less related to reality though. The real training happens during educational field placements and on the job, preferably w/ a good

mentor.

Question: What type of assessment tools do you use to evaluate a respondent/client?

[<Internals\Law Professional Transcript1>](#)

...some GALs use the Mini Mental Status Exam. Um, I think a lot of attorneys would just ask general questions – like do you know where you are, do you know what year it is – asking questions about the potential guardian – what’s this person’s relationship to you, how do you feel about them – you know, and you can, um, I guess the GAL would gauge the person’s mental capacity by appropriateness of the answers to those questions and then, maybe, probe deeper into things if it seems they’re not, um, if they have a deficit. I think that the GAL, a lot of times, would look at the chart at the nursing home or hospital, wherever they are. Um, but mostly it’s just interviewing the person and finding out whether or not they need a guardian and whether or not they are comfortable with the person who’s petitioning for guardianship.

[<Internals\Law Professional Transcript2>](#)

Well, there aren’t any tools, really...just asking questions of the respondent and guardian, medical people, checking into the respondent’s medical records, making observations about his or her deficits.

Although, I was talking with an attorney yesterday and she was talking about using a Mini Mental? Is that something I could learn how to do? (researcher responds “yes”).

[<Internals\Mental Health Professional Transcript1>](#)

The standard, you know, MMSE, um, observations.

The comprehensive form, the assessment form, you know, from the state. You do the MMSE, you do the nutritional, the environmental, the person’s ability to maneuver

within their own home, safety issues, you know, are looked at. Are they alone, are they competent to stay alone, are they following directions on prescriptions, do they understand what their medication is about, um, do they know how to take it? Do they understand the necessity to take it on time?

Also, there are many assessment tools and resources that we use in order to help people.

Some of mandated tools for state programs, all that...

...not only are we looking at environment, but we're looking at surrounding people, who are within that environment, you know. Who's responsible? Who's taking on some of the caregiving, if there's caregiving issues? Who are all of the family that are involved? Who has control? And the underlying principle that I've always practiced on is still to treat this person with respect and make sure that I at least give them some choices. And, you know, they may have three choices, I mean, it depends upon really their cognitive ability and what's gone on. Certainly the involvement of family doctors in assessing this person. Do they understand, how long have they been the physician of record, you know, are they looking at or do they understand family dynamics

[<Internals\Mental Health Professional Transcript2>](#)

...pretty much every time I see a client is another assessment. Things change over time, things can change overnight.

My head (laughing). The only thing, the only tool I can think of offhand that I use, and it's only because the agency requires it, we have an initial assessment process to evaluate the client and we use the mini mental, and that gives a good enough baseline for a start.

Then beyond that it's just basic day to day how are they doing.

a good Mental Health Assessment

Question: How do attorneys/social workers trained to create treatment/care plans for respondents/clients?

[<Internals\Law Professional Transcript1>](#)

Um, I...(pause) they...(pause) will ask the guardian what their care plan is going to be.

Um, it's usually things, like, you know, where they plan to have the ward living, how will they provide for their daily needs, what kinds social activities will they do? But, um, um, attorneys don't really have any training in developing a care plan. So, this is just kind of, I guess, pretty informal, as to what constitutes a care plan. Um...

I think judges wouldn't require it as much of a public guardian or a state guardian. Um, it's more of a family member, just to make sure they're, you know, doing the right thing. Some judges don't require a care plan at all. Um, other judges require it at the time that the budget and the inventory is submitted, they also want a care plan. Certain judges don't require it of anyone.

[<Internals\Law Professional Transcript2>](#)

Well, the term care plan as we use it, tends to be just very basic. Are they going to live at home? How will they get to the doctor? Things like that, not very in-depth.

[<Internals\Mental Health Professional Transcript1>](#)

Umm, well most of care planning is done with the people we work with. We try to work with our clients to determine what they prefer, what they want, and try to get assistance to meet those goals, if possible. Looking at available resources – CCP, Chore services, transportation, money management, etc. Things like that. Even in elder abuse situations, we try to honor the wishes of the elder and advocate for their needs, etc. Training? Well, again that comes through experience and education, the various assessment tools AND

common sense (laughs!), but primarily it's working with the individual and possibly a family to come up with a plan of care.

[<Internals\Mental Health Professional Transcript2>](#)

A good care plan can't happen until a worker understands the ability/disability of the person they are working with (i.e. a good Mental Health Assessment). Through the assessment I can see the avenues to take with a person – be it therapy, ah, meals on wheels, medication, you know, whatever it is that lacking, you try to find a solution to help the client. It's important to gain an understanding from the client about what his or her goals are too. So we work with the person to determine plans. And this can't happen till the worker either works w/ a mentor or has experience. True training is simply on the job.

Question: Would having comprehensive clinical social work assessments of respondents help in determination of guardianship cases and in the creation of treatment/care/service plans, if so, in what ways?

[<Internals\Law Professional Transcript1>](#)

...if a social worker was able to also be a part of the guardianship process that, um, the wards would be better served. Because I think there's just, just a lack of knowledge about that, about what's out there. And, they just a much better perspective, um, evaluating someone, someone's needs and abilities, you know, where lawyers aren't trained in that at all. Um, so, I think especially at, like, the appointment phase, that a social work could so much better tell the judge, you know, what the person's abilities are, what their needs are, what would be appropriate placement, what, you know, what the care plan would be, all those types of things.

I think a lot of what a GAL does is more social work and it's not a lot of legal.

Although, once it gets, I mean, into a trial or writing the GAL report, but a lot of what a GAL is supposed to be looking at and assisting the guardian with, seems like a social worker would be much better, um, able to provide those types of services and to report back to the court on that.

[<Internals\Law Professional Transcript2>](#)

I don't know. I can certainly see where some cases it would be good. Those are the cases, like, when I worked in another office, there was a social worker, who worked on care plans, financial planning, social security issues, with those types of issues it's good, but otherwise I don't think it's necessary as kind of a routine.

Sometimes, yes, I think they would be effective.

[<Internals\Mental Health Professional Transcript1>](#)

I think it should be mandated. I think that's the only clear way a judge and all the players, both lawyers who are going for the guardianship, can be, fully, um, looked into, not looked into, but aware of what's going to happen, of the possibilities and given some choices here. And, certainly I think that they have to look at guardianships as, you don't have to give out all these full guardianships. We can make it limited, to, you know, ok this is financial help here, but we need also, maybe we don't need help with the day to day stuff, maybe that's already been put in, but we need, you know, we don't need to have both guardianships.

[<Internals\Mental Health Professional Transcript2>](#)

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to give an example. A case I was involved with, several years ago, many years ago, was a guy, who living in a CHA building, clearly not making it. Moderate, at least, dementia, now he was able to get out and walk around the community, but he was having difficulty paying his bills, um, he wasn't getting the food that he needed, he wasn't dressing appropriately. Um, when I was assigned to the case, I did an assessment, I was sure that this wasn't just something that was temporary. I assessed that this was a longer term condition for him. I initiated guardianship and, the person who was appointed GAL, looked upon it as only his job to fight the guardianship, because he saw, he met with the client, and heard only the client did not want a guardian. The GAL had no understanding in talking with him that this was someone, who very demented, someone, who was failing drastically in the community. And, his impression throughout was – Well, he said no, so it's my duty – and I can understand that "duty" part, it's just that he had absolutely no understanding that just because this guy said "no" it didn't mean that he was capable of managing himself. So, I've seen when there's not a good assessment, that things fall by the wayside.

Question: Do you think social workers can be effective in the GAL role? Why or why not?

[<Internals\Law Professional Transcript1>](#)

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[<Internals\Law Professional Transcript2>](#)

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[<Internals\Mental Health Professional Transcript1>](#)

Oh, sure! They could be the guardian ad litem for the, I think...that's not a bad idea!

That way they could do the whole assessment. The complete assessment. I think you have...because this is a legal issue, I think a lot of times the lawyers are not trained. And when they are appointed guardian ad litem, they don't have the capacity to look at the situation and see all of it, to look at it holistically. I think a social worker looks at it holistically. We look at environment, family, we do the social history, we take everything into consideration. And, I think they're looking at it legally. Legally, oh, the MMSE is, you know, 19, he needs a guardian. That may not necessarily be true. They

could have a bad day that day. Then tomorrow they could be 21! So, I think, then, sure. Social workers should do it. That's a good idea.

[<Internals\Mental Health Professional Transcript2>](#)

I wouldn't want to. Personal opinion on that, no, I don't think it would be a good idea, because, we're not trained to do legal, we're trained to do social work stuff. And, my understanding of GAL means that would also mean picking up some legal activities, filing papers, filing things with the court, and I'd rather have someone who is trained as a lawyer do that.

Question: Do you think social workers and attorneys should work as interdisciplinary partners on older adult guardianship assessments? Why or why not?

[<Internals\Law Professional Transcript1>](#)

I think that would be ideal. So maybe if, I mean, I don't know, if that would be, um, attorneys, who are going to practice some type of law would maybe partner up with a social worker who practices in this area. You know, that they each have their separate, um, offices and then come together to work on these cases or whether it would be social workers being employed by a law firm that does this types of work or whether it would be court appointed social workers the same way that there are court appointed lawyers. Um, but definitely, I think that everyone would benefit from them partnering up, but there are different rules of ethics and professional responsibility. Um, the lawyer/client privilege vs. the social worker mandated reporting, and, and, just the social workers, and I don't know what exactly their, like, oath is or ethical responsibility is to a client, but, you know, an attorney is hired to do, to do, to represent the respondent who doesn't want

a guardian, but the social worker feels that it's in the respondents best interest to have a guardian, it's kind of a conflict of interest there, you know, I would think in what obliged to do as a social worker. But, I can't think of anything else that would be a problem.

[<Internals\Law Professional Transcript2>](#)

Well, with one, the case I mentioned before, there was a social worker and she helped fill out the Medicaid application, but I don't think she was good, generally not very bright, and she took a horribly long time to do things. Now it's always easy to say – you took a long time to do that. So it ended up being very costly for the family.

[<Internals\Mental Health Professional Transcript1>](#)

Yeah, I think that's ok, because they know the legal end, the wording of, what we need to do to get to the bottom line. And, the social work part of it is that, connected, those touchy feely kind of issues. They are the legal, the very strict, the business of wording, if it isn't in such and such a way, it isn't valid. The other component (slapping her arm), that's human. This is not a piece of paper, this is a human being. I think that's a big problem. The CCP 211 becomes the person and that's not, it's a piece of paper, not the person.

[<Internals\Mental Health Professional Transcript2>](#)

Important. There's one attorney, in particular, who I've worked with on well over 25 cases. She listens to my assessments, I follow her advice.

Question: How long have you been practicing in your profession?

[<Internals\Law Professional Transcript1>](#)

6 years now.

[<Internals\Law Professional Transcript2>](#)

About 20 years

[<Internals\Mental Health Professional Transcript1>](#)

15 years.

[<Internals\Mental Health Professional Transcript2>](#)

29 years.

Elder Law Professional Only Questions

Question: In your opinion, how many guardianship cases are plenary/limited?

Why?

[<Internals\Law Professional Transcript1>](#)

I would say, at least, 9 out of 10 are plenary. Not very many limited.

[<Internals\Law Professional Transcript2>](#)

Most are plenary, and it's usually because it's where the person is. If people would do it sooner there would probably be more limited guardianships.

It becomes stronger and stronger and by that time it's apparent it has to be plenary guardianship. The good news is by then they don't know what's really happening and there isn't a lot of fighting and strife.

Question: What kind of assistance or education has a family guardian needed, if any, regarding his or her role as a guardian?

[<Internals\Law Professional Transcript1>](#)

...so I think it's sometimes, you know, the attorney's job to educate the guardian on what they can and can't do, what they need court approval for.

They don't receive any training. They get a handout telling them of their responsibilities, you know, kind of paraphrasing from the statute. Um, and most judges, I would say, at the time of the hearing, give a little blurb about "you are now the guardian, this is your responsibility, and you have to come into court every year and report to us about how the ward is doing and on the finances. Um, but that's really it (emphatic). And, you know, a year goes by and things get kind of fuzzy in your memory about what the judge said. So that's where, I think, the attorney, the guardian's attorney, really plays a crucial role in educating them, you know, what they need to by law, what they can and can't do, um, what this means going forward, maybe give them a blank annual report that they need to fill out every year. Um, and I think that if the guardian goes in pro se, that's really where it can kind of fall apart. If they have nobody educating them on what they can do, they just get their papers and then, it's like, they're on their own. So even with attorneys, you know, a lot of attorneys are busy and they don't have time and really sit down with their clients and educate them, so.

...there could be better education for guardians that are appointed.

[<Internals\Law Professional Transcript2>](#)

...one of the things I have to do as an attorney is let people know what they're in for.

Um, so, at one of my first meetings I try to let them know what they need to do, what they're in for. Kinda let them know the documenting they'll need to do.

even though I give the speech, I find they have trouble keeping records and have to retrace what they've done with funds over the last year...it's hard for any of us to remember what they did with \$35 dollars several months ago.

I always try to give them education. At the court hearing when a guardian is appointed the judge hands over a document that kind of outlines what the obligations and duties are of the guardian, but I'm not sure how often people actually read that. I think they're so happy to have this is kind of a deadline to go to court, and now that's over with and now they can actually relax, but it should be when their work just begins, but it's a sense of relief that they've finally been appointed, so (garbled). I always struggle with how do I let my clients know what they need to do, what's an appropriate amount vs.

overburdening them with information all at once, it's a whole new world for most of them (garbled – laughing)...I understand their confusion and I try not to lay on too much, but give enough information vs. not enough, and how not to spread it out, so that they're always being given information.

Question: What is your understanding of the profession of social work and its' role in assisting people?

[<Internals\Law Professional Transcript1>](#)

Um, my perception is that, I think, well, from what I understand, as a social worker you can have a wide variety of things you do, either like private practice therapy type thing or working in a hospital. Um, helping with a care plan and facilitating the medical staff and the patient. Um, and then, making people aware of what kind of social services they would qualify for. That's what I think.

I did work at a law firm where we had a social worker on staff, who was a partner in

every case, and did, I would say, at least half of the work that we provided the client was the social worker's. You know, she would communicate with the nursing home about what the person needed or trying to get them into a different room or qualify them for Medicaid. She would sit down with the client and explain to them all of the things they might be eligible for. Help them with applications for things, like Circuit Breaker or, you know, prescription coverage. She just knew a lot about medical issues, a lot more than the attorneys would know, because she had worked at a hospital, um, and she just kind of facilitated the whole, like, family care plan. You know, like, she was, like, I don't know how we would have done it without her.

So, and then in the (anonymous office), educating (attorneys) about different issues that they might not be aware – family issues, family dynamics, um, you know, just things to look for that an (attorney) would probably totally miss – (tape garbled) medication or, I don't know, just different things that might help out the caregiver or the guardian, I don't know.

[<Internals\Law Professional Transcript2>](#)

I have no idea. I really don't run in to it much.

...where I use social work the most, just trying to understand better what's going on, about the person, their situation, to get more information about the family. I should use them more to understand about Social Security, Medicare and Medicaid systems.

Question: How often do you make referrals to social service and what kind of services do you request?

[<Internals\Law Professional Transcript1>](#)

In one case, I referred someone to DORS. Um, and like you know, like did the whole application process for a client. But, you know, I don't know much about it.

I guess an assessment of the person to find out if they'd be eligible for certain social services.

I would say, not often. But I should (laughs). But I think, I mean, I think, that they definitely, in a lot of cases, could use those types of services, but it's almost like what you're doing for them is straight forward and that's, you know, like a separate area. But, I think they would be well served by somebody being able to provide full...it's just that being an attorney without, you know, much knowledge of it, of what's available or even where to refer, you know, you tend just to not, not do that.

[<Internals\Law Professional Transcript2>](#)

No. Probably because I don't understand how I can, what they can do and how they can help my people.

I know about some things – Day Care, Respite Care – and I'm not familiar with them, I just know from hearing about them from others. I guess I do refer to social workers because I tell people to talk with them at the hospital or nursing home, to find out what's available to them. I tell them they are a good resource for them.

Question: Are you aware of any family guardian who has behaved inappropriately in his or her role as a guardian? Explain?

[<Internals\Law Professional Transcript1>](#)

The ward was in a facility – a developmental kind of group home. Um, and she had been raped in 2000, and so there was kind of a law suit having to do with that and that's why

the sister stepped in to be guardian. She otherwise really wasn't involved in her sister's care at all, didn't really know what was going on.

I called the guardian because I needed her signature on something and she said "oh by the way, my sister is now living with me". She pulled her out of the facility without getting court approval, moved her.

I've had other experiences where guardians think it's ok for them to pay themselves out of the wards account for things that they do as guardian, not knowing that you need to go in and get court permission for that.

I think it's the guardian, um, you know, not thinking that they need court permission to do something with "mom" or "dad" or "sister" or whatever.

I've had cases where they misappropriated funds of the ward. Um, you know, don't keep up with the annual accounting, don't give the attorneys the records that they need for the annual accounting. And, then I had one case where, you know, even after repeated attempts, repeated attempts, they wouldn't turn it over, so the person ended up getting discharged as guardian and then the office of the state guardian was appointed, which you never want to happen.

[<Internals\Law Professional Transcript2>](#)

...they (family) want things real fast – I want to be the guardian, I want to do something – and a lot of times it just a simple power struggle, it sounds like it is.

...even though I give the speech, I find they have trouble keeping records and have to retrace what they've done with funds over the last year...it's hard for any of us to remember what they did with \$35 dollars several months ago.

Um, most of the problems I've seen are with the guardian for the estate. (Garbled) I think a lot of times, maybe I'm too naïve, most of the times they do things unintentionally, they don't intend to, they don't say – Ok, I'm going to steal from Aunt Betty – but, they say – oh, there's a pot of money here and I have a bill to pay, I'll take a hundred dollars – then there's another bill to pay, so it continues. I think sometimes they intend to pay it back, but it doesn't get paid back. They think it's just a little, so it's not important. But, once they see how easy it is – most of us if we can get away with something, we tend to do it, and some get caught. That's human nature. Um, if I got caught every time I went 2 miles over the speed limit I probably stop going 2 miles over the speed limit. Um, but that's where most of the problems come up. I had one...other times it's just they don't know...that they're required. Um, this one case, I had the guardian was just a sweet man, adorable man, it's a good thing I liked him so much, because things went bad. There was some money involved, but not a lot, and he became guardian of his wife, and then he applied for this Medicaid thing for the couple as a unit to qualify the Mrs. (LP goes on the talk about the difficulties with understanding Medicaid and Social Security). So, anyway, they qualify the Mrs. for Medicaid and the money goes into a trust. Meanwhile, during this whole process he, a friend of his is a contractor and finds a home for sale for little or no value, and the husband, the guardian, is to put up the money and buy the home, (garbled), and the contractor will provide the labor, and then when it's done, they'll sell it for a huge profit and everyone will be happy. Well, they can't sell it. The husband is \$65,000 dollars into it and he doesn't have any money. It certainly didn't help that the market changed during that time. But anyway, he thought it was a good way to make some money, but ended up spending the money that

was intended for the he and wife. The money that was supposed to be set aside in the trust. Another time, the guardian spent an enormous amount of the ward's estate and then were going around to all their friends trying to get receipts for the past year. Based on what they provided, they spent so much time at the movies they wouldn't have had time to do anything else. But, by the time anyone figured it out there was nothing that can be done to get the money back, maybe make them sell the house, but that's where the ward is living, so what do you do? Another one, (garbled). So, it's a lot to do.

Another issue is that often the people that cause the problem within a family end up benefiting from it. I worked with a family, whose son caused lots of problems, abusive, taking constantly from his parents. Mom and dad end up in guardianship, but when they died the estate went to the son.

There are problems where people are stealing...

Question: What percentage, would you guess, older adult respondents attend guardianship hearings? Why or why not?

[<Internals\Law Professional Transcript1>](#)

...maybe 60% of Respondents attend their hearings.

[<Internals\Law Professional Transcript2>](#)

for older people it's much less, I'd say not even 20%. It's kind of my observation that it's less. And often times when they come it's because they want to object. Sometimes they come because it's because they thought they were supposed to be there.

Mental Care Professional Questions

Question: What is the role of social work in working with older adults?

[<Internals\Mental Health Professional Transcript1>](#)

I think we're, um, a venue for change in a person's life, who needs help. Connecting them with services, not only provided by their community, their church, but the government and all the policies they can be connected to, maybe they're not even aware they're eligible for.

I think that part of our responsibility is to put the ducks in a row, is to help people to put those shelves in order. Whether that means getting them on Medicare/Medicaid, or helping them understand that they can pre-plan their funerals, they can put this money aside, to understand how much money a person can have in an account, you know, what they can use this money for, what they can't use the money for. You know, they can make decisions, and certainly there are lots of programs that social workers have been unique in finding help. Looking for any kind of a service. That's what the major rule is, I'm here to help you, what do you need – do you need a walker, do you need a commode, do you need a bath bench, do you need the bars installed – helping people to understand that it's ok to ask and use those things that are available. You find people who don't want to use programs because they're from tax dollars, but they paid into it. That's one of the things you're fighting against, certainly.

[<Internals\Mental Health Professional Transcript2>](#)

I see the social worker as the gatekeeper to the community, in general. Whether it means mental health or getting things like Meals-On-Wheels, ah, transportation, helping them find transportation, medical care, helping them get hooked up with what they need.

Question: What was your knowledge of the family in older adult cases?

[<Internals\Mental Health Professional Transcript1>](#)

...we need to know who's involved in a person's life, family dynamics, do they have support, does the person have family locally or out of town?

...does a family care person need help, are they stressed out with other stuff – kids, works, all that...what help do they need?

And, they look at it and say, - uuup, this is mom, I'll take care of her – and they forget, I also have a private life. And, that private life now, especially if they are going to take over this and they're not going to be institutionalizing, they're coming home to they're home, is absolutely going to change their lives completely.

...the family sees that all the money's going out and this is going on and dah, dah, dah!!, and we NEED THIS (guardianship) RIGHT AWAY!!

[<Internals\Mental Health Professional Transcript2>](#)

When I've referred clients for guardianship, there rarely has been a family involved.

Usually most of the people that I worked over time, haven't had much family involvement to start with. Whether or not it's a guardianship. And often, unfortunately, when there is family, the family is (garbled) or they are alienated from the client because of a history of abuse or neglect or (garbled). So, I don't, when I've worked with guardianship cases and there has been a family, I've tried to get the family to step in, if

they are able to and only if they haven't (garbled), and then I use the state guardian and the public guardian.

Question: What is your understanding of the guardianship system?

[<Internals\Mental Health Professional Transcript1>](#)

I think it's, the, um, the umbrella in which they are working, which is a law venue...it's there to try to help people, who really need help and there's no one to do it – help them with their money, taking care of themselves.

[<Internals\Mental Health Professional Transcript2>](#)

My idealistic understanding is of it, is that it is there to protect people. Um, that doesn't mean it always happens. Um, the public guardian, in my experience, has been better staffed and more able to help take care of people. I think guardianship is something to use as a last resort.

Question: Should respondents come to court to speak for themselves about their needs, etc? Are there barriers/supports to providing this?

[<Internals\Mental Health Professional Transcript1>](#)

They have that right. This is a, um, an adult, who has made choices all of their lives and this is a choice at the end. And, I think it's good for the judge to see the person. Let's witness what's going on here.

[<Internals\Mental Health Professional Transcript2>](#)

I've never told anyone they can't come to court. When they've been served papers, I've always made sure that they've known when the court, when the dates were. On the other hand, I have not gone out of my way to help them get down there, because I think that's another part of the assessment; if someone has all the information, and they say they're

against it, can they make it down to court. I think I've had three people be able to come down independently, well, no, not even independently, they've been able to ask someone to get them down there.

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